











# THE CALCUTTA REVIEW.

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VOLUME CXXV.

*April 1908.*

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*No man who hath tested learning but will confess the many ways of profiting by those who, not contained with stale receipts, are able to manage and set forth new positions to the world; and were they but as the dust and cinders of our feet, so long as in that notion they may yet serve to polish and brighten the armoury of truth, even for that respect they were not utterly to be cast away.—MILTON.*

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No. CCLII.

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# THE CALCUTTA REVIEW.

*No. 252.—APRIL 1908.*

## Art. I.—THE QUARTER.

**T**HERE was a partial failure of the monsoon in 1907 with the consequence that the first quarter of 1908, the last of the official year Famine. 1907-08, was made sorrowful and heavy by the spectacle of famine stalking through some of the fairest provinces of India. To quote the Viceroy, who presided at a meeting in the Calcutta Town Hall on 17th March to create a voluntary famine fund: "The famine area comprises practically the whole of the United Provinces, some of the Protected States in Central India and parts of the Punjab, Bengal, the Central Provinces, and even Bombay. It covers approximately 150,000 square miles, somewhat more than Great Britain, Ireland, Holland and Belgium combined, with a population of roughly 50 millions. In other words, over one-twelfth of the area of India and one-sixth of its population are affected." The efficiency and resource of Sir John Hewett's administration in the United Provinces have been the theme of universal praise. Mr. Gokale, the eminent leader of the Moderate Section of the Indian National Congress, fittingly voiced the sentiments of the whole of India when he declared at the Budget meeting on 27th March that Sir John Hewett would be remembered by the people of India

even as *Sir Antony MacDonnell*, his great predecessor, is remembered, *amicus humani generis*. According to the latest returns there were at the end of the quarter, 1,500,000 persons in receipt of famine relief in British India and the Protected States. To tide over the crisis, the Government of India issued over two crores of rupees in the form of takavi loans and provided an equal amount for 1908-09. They suspended over  $3\frac{1}{2}$  crores of land revenue in two years and provided 132 lakhs for famine relief during the ensuing year. The Native States affected have been inspired by this great example, and private charity has also been greatly stirred. In a word, everything that mortal man can do is being done to rob the visitation of its worst terrors. If there is a normal monsoon this year all will be well ; if not then God help India.

As a result of the public meeting held in Calcutta on 17th March, at which the Viceroy presided, an Indian Famine Relief Fund was established with the following Executive Committee:—The Hon. Sir Francis Maclean, K.C.I.E., Chairman. Members:—The Hon. Nawab Bahadur of Murshidabad, the Hon. Maharajah Bahadur of Durbhanga, K.C.I.E., the Hon. Maharaj Adhiraj of Burdwan, the Hon. Mr. J. O. Miller, the Hon. Nawab Syed Muhammad, the Hon. Mr. G. R. M. Chitnavis, the Hon. Mr. E. A. Gait, C.I.E., the Hon. Mr. A. A. Apcar, C.I.E., the Hon. Mr. G. H. Sutherland, Maharajah Sir Prodyot Coomar Tagore, Prince Mahomed Bukhtyar Shah, C.I.E., Sir Ernest Cable, Sir Daniel M. Hamilton, the Hon. Mr. Madho Lal, the Hon. Rajah of Nashipur, Mr. R. W. Carlyle, C.I.E., Mr. W. Brown, Nawab A. F. M. Abdur Rahman, Mr. J. S. Harris, Mr. L. G. Dunbar, Rai Hari Ram Goenka Bahadur, Maharajah

Kumar Reshee Case Law, and Mr. O. T. Barrow, C.S.I. Honorary Secretary :—Mr. O. T. Barrow, C.S.I. It was at the same time resolved to request His Excellency the President to invite Vice-Presidents of the Fund to take steps towards the formation of Provincial Funds in aid of the General Relief Fund. The Executive Committee of the Fund held its first meeting at the Bengal Chamber of Commerce on Wednesday, the 25th March. The initial arrangements for the work of the Fund were decided on, including an appeal to the Government for certain concessions similar to those which had been granted to the Charitable Relief Fund instituted at the time of the famine of the year 1900.

The Hon'ble Mr. E. N. Baker's third Budget was naturally affected by the famine. The Budget. Last March he estimated the revenue of 1907-08 at 108,75 lakhs, the expenditure chargeable against revenue at 107,59 lakhs, and the surplus at 116 lakhs. Owing to the failure of the monsoon, however, it is now calculated that the revenue will amount to 106,48 lakhs, a falling-off of 227 lakhs. The expenditure is now estimated at 106,13 lakhs, and the surplus at 35 lakhs, being a net worseness of 81 lakhs. The stress of course permitted of no remission of taxation. "For next year," said the Finance Member in his Budget speech, "our calculations are based on the assumption that the monsoon will be normal. If that should happily prove to be the case, we have reason to hope that the progress of the country will resume its usual course, and that the set-back which it has met with in the present year will rapidly be made good. In this view we take credit for a reasonable development of revenue under all the principal heads, and for a full recovery under Land Revenue and Rail-

way earnings. On the other hand, we have provided 132 lakhs for famine relief. The gross revenue is estimated at 110,16 lakhs, the expenditure chargeable against revenue at 109,30 lakhs, and the surplus at 86 lakhs. The Military charges are estimated at 31,13 lakhs, which is 79 lakhs less than the budget for the current year, though 35 lakhs more than the probable actuals. This result has been effected mainly by restricting the grant for 'special' expenditure to 250 lakhs, and allowing no re-grant of lapses. The reduction would have been greater but that we have been forced by reason of the prevailing high prices to increase the provision for feeding the Army by 19½ lakhs."

The Budget Debate followed the old familiar lines, but as it was probably the last of the obsolete pattern it deserves to be historically remembered. Mr. W. L. Harvey, the officiating Member for Commerce and Industry, made the most interesting speech giving great joy to the merchants of Calcutta by announcing that the Secretary of State had been compelled by the local agitation to sanction the construction of a bridge over the Ganges at Sara to connect the two portions of the Eastern Bengal State Railway. Sir Harvey Adamson, the Home Member, conciliated native sentiment by announcing that the Government of India had decided at last upon the experimental separation of executive and judicial functions in the two Bengals. The general principle outlined in the scheme is that the trial of offences and control of the magistrates who try them should never devolve on officers who have any connection with the police or with executive duties, while on the other hand the prevention of crime should be a function of the district

officer and his executive subordinates who are responsible for the preservation of the peace of the district. Mr. Baker, the Member for Finance, announced that the Government of India had accepted the suggestion of the Maharajah of Darbhanga to appoint a small commission to enquire as to the high prices of food grains. In summing up the position, Lord Minto was able to make a welcome announcement of the abatement of plague in all parts of the country after a frightful course of eleven years. He said: "The total deaths from plague in Bombay, the United Provinces, and Punjab in 1908 are very much lower than those of the corresponding period in 1907. I find that in January and February of the latter year the deaths in those provinces were 44,319 and 78,063 against 7,445 and 11,898 in January and February of this year, whilst the total deaths in January and February 1907 were 122,382 against 18,343 in the same months of this year—an enormous reduction in mortality, and allowing for the climatic influences, I trust that we may not be too sanguine in hoping that this terrible scourge is at last beginning to give way to scientific research and to the energy of our officers assisted by the people themselves."

A legislative enactment of far-reaching consequence is the amendment of the Code of Civil Procedure. This is embodied in Act No. V. of 1908 which received the assent of the Governor-General on 21st March 1908. On the same day, Mr. H. Erle Richards, the Legal Member, introduced a bill in the Imperial Legislative Council to amend the Presidency-Towns Insolvency Bill. This is a much needed measure, for owing to the present condition of the Indian Bankruptcy Act, commercial morality, in Calcutta especially, is at a very low ebb.

Civil Procedure.

On Saturday, 14th March, the Calcutta University celebrated its Jubilee Convocation by conferring honorary degrees on several distinguished men. The list was neither very comprehensive nor fitly representative, but one can excuse mistakes in all first adventures. For the sake of a record we publish in another part of this number a full report of the function. It hardly calls for much criticism. The outstanding features in addition to that mentioned above, were the announcements that the Maharajah of Dharbhanga had given  $2\frac{1}{2}$  lakhs of rupees to the University Library and Government an annual grant of Rs. 10,000 for the foundation of a Chair of Economic Science. Both Lord Minto, the Chancellor, and Dr. Mookerjee, the Vice-Chancellor, had much to say about University reform, but omitted all mention of Lord Curzon's part in it.

After a long period of quiescence on the North-  
 A Frontier War. Western Frontier of India, the Zakkas,

a powerful and unruly Afridi tribe of Catenus, began to give trouble. Emboldened by petty successes they made a raid on the town of Peshawar. This was more than the Government of India could bear, and in the middle of February an expedition under Sir James Willcocks was launched against them. The punishment inflicted was swift and severe. In less than a fortnight the Zakkas were brought to their knees in abject submission. Thanks to the admirable policy of Lord Kitchener, which entails the proper training of the Indian Army in peace time, the troops were rapidly mobilised and moved forward into the Bazaar Valley, seizing every point of vantage as they went swiftly along, disconcerted the Zakka Khels, and the subsequent operation showed the wily tribesmen that they had a

very alert enemy to deal with. Not only were the troops quite able to protect themselves in camp and keep the enemy comparatively harmless at arm's length, but in the attack there was no foolhardy rushing a position. The new attack formation was very effective in dealing with the Zakka Khels in their sangared positions, and when it came to playing them at their irritating pastime of "sniping," the pickets took a hand in it with much success. Not only were the snipers sniped *con amore*, but a craftily laid mine or fougasse exploded at the psychological moment, sent the Zakkas scuttling out of their positions, and there was little further sniping that night. Our casualties were very slight, the Seaforth Highlanders being hardest hit. They lost in killed Major Forbes Sempill and a young Lieutenant attached to the regiment. Colonel Roos-Keppel the Political Officer concluded a peace by which the Afridi maliks and elders undertake to hold themselves jointly and severally responsible for the good behaviour of the Zakka Khel. It was the most satisfactory war in the whole history of the North-West Frontier.

Changes in the administration were many and important. It was officially announced The Administration. on 11th January that much to the regret of the Viceroy and the sorrow of the people of the Punjab, Sir Denzil Ibbetson, Lieutenant-Governor of the province he loved and served so well, was obliged to resign on account of the severe illness he had borne so heroically. Lord Minto characterised the event as an irreparable loss and every loyal inhabitant of India endorsed the sentiment. To Sir Denzil it was due that there was no repetition of the Indian Mutiny last year. His firmness and determination to brook no half-measures nipped in the bud the attempt

of Lajpat Rai and Ajit Singh to corrupt the allegiance of the Sikh soldiers. His courage inspired the Government of India to act promptly and adopt those methods which have so successfully crushed sedition. Sir Denzil left India only to die. The cancer in his mouth developed alarmingly on his arrival in England and in little more than a month from the date of his resignation he succumbed to the malignant disease. He was of the same type of Indian administrators as the Lawrences. He was succeeded as Lieutenant-Governor of the Punjab by Sir Louis Dane who went in charge of Lord Curzon's embassy to Amir Habibullah. In March, Mr. J. F. Finlay resigned the portfolio of Commerce and Industry after an uncomfortable tenure of less than a year, and in the same month, Sir Lawrence Jenkins, much to the regret of the people of Bombay, left the High Court to join the India Council at Whitehall. Another retirement of note was that of Sir Frederick Upcott, the first President of the Railway Board, which was created in 1905 by Lord Curzon. He came out to India in 1868 as a Stanley Engineer and nearly all his service was in the direction of the promotion and organisation of State Railways.

Death has been very busy in the ranks of distinguished retired Anglo-Indians. The Obituary. • quarter's obituary includes Sir John and Richard Strachey, Sir George Couper, Sir Auckland Colvin, Sir Lepel Griffin, Sir John Eliot, Colonel Joshua Nunn, and among those in harness Dr. W. R. Pym, Bishop of Bombay and Mr. L. P. Pugh the distinguished barrister of the Calcutta High Court. The Bengalees also suffered a great loss by the death of Maharajah Sir Jotindro Nath Tagore.

Art. II.—A RETROSPECT AND A WARNING—  
1885—1908.

SOMETHING over twenty years ago, there appeared in the pages of this *Review* an article dealing with the Bengal Tenancy Act, then recently added to the Statute Book. We do not now propose to enter on a general survey of the working of that Act nor to enquire how far it has succeeded in securing to the vast body of raiyats of this province, the rights which it was meant to safeguard. In 1898 various amendments were made in the Act, more especially with a view to facilitating the preparation of Records of Rights. The work of preparing these Records has been in progress continually since 1892-93, and up to the present, they have been completed for all the districts of this Province (as at present constituted) north of the Ganges, for a large part of the Chota Nagpore Division, and for various small areas in every division and district.

The urgent need for the preparation of a systematic Record of Rights was insisted upon as far back as 1819 or 1820. Some seventy years later it began. Various landlords objected, as they knew that their hidden doings were certain to be brought to light, but luckily wiser counsels prevailed and the work went on uninterruptedly for about eleven years.

In 1904, at Bhagalpur, a body of local zemindars approached Sir Andrew Fraser with a petition traversing the methods of the officers of the Settlement Department, and serving up the old stock arguments against any attempt at relief being made in the interests of their tenants. In particular they objected to the action of

officers of the Settlement Department who ruthlessly pruned away enhancements illegally exacted from the raiyats since the passing of the Tenancy Act. They argued that because a rent has been successfully extorted for three years it becomes, *ipso facto*, the rent payable, *i.e.*, legally payable, and that the Settlement Officer had no discretion to go behind the rent actually paid during the preceding three years or to examine if the stringent provisions of Section 29 of the Act had been disregarded.

We understand that in another district an eminent native notable had succeeded in extorting, immediately after the conclusion of the settlement operations, agreements to pay unlawfully enhanced rents from numbers of his tenants. Evidently he and his fellow-landowners in Bhagalpur considered that as the law of 1885 had for so long been a dead letter, it should continue to be so if they could manage to annul its provisions in practice. And no doubt they relied on the disinclination of civil courts to enforce laws in restraint of "free" contract (save the mark!) especially when the "free" contract is between a raiyat and the zemindar of a thousand square miles, backed by the moral influence of a legion of peons with thick *lathis* and scarlet *pagris*. Their view clearly was that the "fair" rent for a holding is the utmost they can squeeze out of the tenant, and they proved themselves to be past masters in the gentle art of enhancing rents by fictitious re-measurements, unjustifiable re-classification and a multitude of more tortuous methods. All their arguments were practically a re-hashed version of those brought forward in 1892 when the Settlement and Survey operations were begun in Behar, and one would have thought that a reference to the masterly disposal of them in Sir A. P.

*Macdonell's Minute of 1893 (September)* would have sufficed for their disposal.

But apparently the Bengal Government thought that "something must be done" and a draft Amendment Bill to the Tenancy Act was circulated in the cold weather of 1904-05. Its salient feature was an admission (by implication) that Section 29 of the Bengal Tenancy Act was obscure in meaning, and the proposed remedy was a childish attempt at deciding "when is a legal presumption not a presumption." A proposed new Section 29 was inserted that annulled as far as it could the well-considered conclusions of the Rent Law Commission and the framers of the Act of 1885. But, luckily, the absurdity of the new proposal was so patent that it was obvious to everyone except its sponsors, and it died a natural death under a storm of adverse criticism from all the officers who had a practical knowledge of the working of the Tenancy Act. Its disappearance was accelerated by an authoritative decision of the Calcutta High Court to the effect that Section 29 really means what it conveys in plain English; and that the Behar Settlement Department was absolutely correct in its interpretation and application of the section. Subsequently, committees were appointed to consider the need for specific amendments of the Tenancy Act on certain limited points. As a result of their deliberations, this Amending Act of 1907 has been passed. It purports to have been framed in the interests of the tenants, but a very close examination yields but little that is likely to benefit the tenants, and it discloses much that may easily react to their great and unforeseen disadvantage.

The most striking novelty in this Amending Act is based on the acceptance of the assertion that the existing

method of procedure in Rent Suits is unduly protracted, and a summary method is introduced. This summary method is not to be availed of except by chosen Zemindars whose accounts are correctly kept, and who are recommended by the local officers as fit and proper persons to be allowed to avail themselves of this summary procedure. The new procedure is, briefly, a short cut to the issue of a decree for the amount claimed. It is admittedly based on the method adopted by Government and known as the Certificate Procedure, which is largely used to recover cesses for roads and public works, and rents in khas mahals and in wards' estates. But there is underneath a false assumption. The accounts in the Government Offices are kept as accurately and as honestly as possible. Those who keep them have no personal interest in falsifying them, or in making demands that are not due. The landlords' agency for keeping accounts is hopelessly corrupt, and they have every incentive to making false statements of arrears. Even a *bonâ fide* error would be productive of unnecessary worry to the unlucky tenant; and a tardy admission that there was an error would not compensate the *râiyat* for the harassment to which he had been exposed.

We are not favoured with any statement of the reasons that have satisfied the Bengal Government that a summary procedure for the recovery of rents is required in Bengal. The enormous benefits of the Permanent Settlement are all clear profit, almost, to the Zemindars. If proprietors in temporarily settled areas pleaded for an accelerated method of realizing their arrears of rent they would have a much better case than have these Bengal Zemindars whose revenue-demand is frequently not more than a thirtieth or a fortieth part of their rent-roll. Again, it may be said that fully 80 per cent. of

rent suits are uncontested. Yes, but the average time required for the disposal of uncontested rent suits is only about 10 or 11 weeks. The proposed certificate procedure will not materially abridge that. The balance of contested cases will drag on in either court, whether the deciding officer is a Revenue officer or a Munsiff.

But a greater objection by far is the proposal that puts on the tenant the onus of proving that he has *not* paid up his rent. We are not aware of any country where the debtor has not to prove his claim. ~~But the~~ Bengal Zemindars are so sorely in need of protection that a benevolent Government says—"You need only make a claim and the tenant is straightway called on to disprove your claim." We need not enlarge on the utter absurdity of asking anyone to prove a negative—most of all a wretched raiyat, illiterate and defenceless against the unlimited resources of a relentless Zemindar or tahsildar. It is true that he can appeal to the Civil Court, if he has been wrongly dispossessed of his holding and sold up by this beneficent summary procedure. Surely the Bengal Government is aware that to tell a tenant that his remedy lies in a civil suit is equivalent in the majority of cases to telling him that he has no remedy at all; and where is a tenant who has lost his holding (by being sold up) to find funds for filing a formal suit? His only hope of raising money is a mortgage on his land; and neither mahajan nor village bank will lend a homeless, landless outcaste anything.

We need not enlarge on the many familiar devices that are practicable (and are practised all too often) to suppress all knowledge of the pending proceedings till the holding is brought to sale. We commend to the

notice of those who have framed these proposals for summary rent-suits the accumulated views of their predecessors as to the effect of summary methods for recovering rents since the days of the "*Paneham*" and "*Haftam*" (of evil memory) downwards. A good and just landlord has no trouble in realizing his lawful demands. The others (we hope they are not the majority) need no assistance from Government.

We notice that this summary procedure is only to be used where a Record of Rights has been prepared and is subject to periodical revision. As far as we are aware, no steps have as yet been taken to keep up to date the Records of Rights in Behar. In the United Provinces grave difficulties have been experienced in revisional work; and the difficulties are not likely to be less in densely populated districts like Saran and Muzaffarpur. Recent experiments in Balasore have revealed them.

Again, co-sharer landlords are now enabled to sue separately for their rents when they have been apportioned. We recognize that it was a troublesome thing sometimes for them to sue for rent; but it was always open to apply for the appointment of a common manager. Now it is the tenant who must suffer because of quarrels among his landlords. We recommend all tenants to deposit their rents in Court rather than expose themselves to a succession of rent-suits for purposes of harassment.

The question also arises, what officers are available to try these "summary" rent-suits? It is not contemplated to leave them to Munsiffs and the Civil Courts. This is an abandonment of the position deliberately taken up about 1868, when rent-suits were handed over to the Civil Courts. We imagine that the present revenue

authorities will say that they have quite work enough on hand. In Saran there are usually over 11,000 certificate cases dealt with annually for the recovery of cesses ; what the number may rise to if summary rent-suits are added, is difficult to estimate.

We have nothing but praise for the sections in this Amendment Act that impose a duty on Civil Courts to consult the duly-framed Record of Rights, especially with regard to the rent payable ; and that provide for the framing of a Record of Rights in certain cases on the application of a proportion of the tenants. Other sections that tend to diminish litigation, when under the previous law the effect of decided cases was to foment litigation, are well conceived and should have a beneficial result. But we regard with apprehension this new summary procedure, as it can easily be made an engine of oppression : and we look in vain in the former and present histories of landlordism in Bengal for any adequate justification for its introduction. We hope to examine its operation when it is actually put in force (if ever) and we should be very glad to find that our apprehensions have been unfounded.

### Art. III.—OLD CALCUTTA.

#### SOME VANISHED HOUSES.

"Change...is as much a necessity to the human heart and brain in buildings as in books."—*Ruskin*.

I N no city of the modern world have architectural changes been so remarkable as in the metropolis of India. We refer not only to alterations in the prevailing style of architecture but to the disappearance of former landmarks well known in the past and their displacement by subsequent buildings. It is proposed to recall a few instances of old houses in the City of Palaces which have now disappeared.

#### THE OLD COURT HOUSE.

On the site of St. Andrew's Kirk of the present day and the road to the west of it leading to Lyon's Range, Mr. Richard Bouchier, Second Member of Council and Master Attendant of the Port of Calcutta, built a house in 1727 by public subscription for "educating poor European children in the Protestant religion." This was the first charity school in Calcutta and boys were boarded here till the middle of the eighteenth century. Mr. Bouchier, who on his retirement became penniless and died an insolvent, was for ten years Governor of Bombay and is said to have advised Clive and Watson to attack Gheria in 1756. The Mayor's Court, established in 1726, used to hold its sittings in a portion of the house which is described as having been of "one floor and very spacious." The building was made over to the Company in 1734 on condition of their paying Rs. 4,000 annually to the funds of the school. Additions were made to it in 1762 and here the sittings of the Supreme Court were held.

The house as it appeared in 1786 is shown in one of Daniell's Views as a two-storeyed structure "with a portico running along its whole length and surmounted by a wide verandah." It was also used as the Town Hall and as an "exchange, post office, quarter sessions office, public entertainments and assembly rooms." It was here that Freemasonry in Bengal had its headquarters till about 1786 when the craft removed to a building in Lal Bazar opposite the present Police Office and adjoining the old Harmonic Tavern. The floors of the Court House being found unsafe, the structure was dismantled in 1792. Some thirteen years later, arrangements were proposed by the Lottery Committee for the erection of the new Town Hall. The Police Office at Lal Bazar was the property of John Palmer, a "merchant-prince" of Calcutta and son of Lieutenant-General William Palmer, Private Secretary and Confidential Minister of Warren Hastings. John Palmer, who was known for his magnificent hospitality, sold the building to Government for the purpose of a Police Office and Court. The house west of the Police Office formerly contained *hammams* or warm baths, while the old Jail stood on the opposite side of the street and executions took place on the cross-roads near it. Opposite the Jail and next to the Police Office was the famous Harmonic Tavern, which was by far the handsomest building then existing in Calcutta. It has been described as being supported by a "select number of gentlemen, who, each in alphabetical rotation, give a concert, ball and supper, during the cold season, once a fortnight." It is further said to have been capable of 'accommodating five or six hundred persons with ease.' Latterly the building was used as the Sailors' Home and has since been replaced by the Magistrate's Court.

## THE FIRST CHURCH

stood on the ground now occupied by the octagonal chamber of the Bengal Legislative Council at the corner of Dalhousie Square and Clive Street. Out of compliment to the Queen, it was dedicated to her patron saint, and was known as the Presidency Church of St. Anne and was consecrated on June 5, 1709. The lofty spire is said to have been uncommonly magnificent and formed the "principal object in every view of the town." It was built by the "pious charity of merchants residing in Calcutta and the Christian benevolence of sea-faring men" who came to trade there. The Governor is said on every Sunday to have *walked* to it "in solemn procession attended by all the Civil Servants and all the military on duty" as his Honourable Masters had informed him that if he wanted a "chaise and pair" he would have to pay for them himself. The steeple of the church was blown down (according to Archdeacon Hyde) in the cyclone of 1737 and the building itself demolished twenty years later by the soldiers of Siraj-ud-Daula. The land remained waste for nearly another score of years, when arrangements were made in 1776 for the erection of a range of buildings for the accommodation of "writers" or junior servants of the Company who were originally employed in doing copying work. It was a huge barrack-like white-washed structure and came to be known as Writers' Buildings. Daniell shows it in 1780 as a "three-storeyed bungalow of the plainest possible construction." Writers drawing less pay than Rs. 300 were allowed quarters in the new building. Afterwards when the age for entering the Company's Civil Service was raised and the period of a writer's stay in Calcutta reduced, this "nursery of proconsuls" came to be deserted and the structure was occupied as

Government offices. Transformations were subsequently made to it by Sir Ashley Eden and it came to be known as the Bengal Secretariat. Among other churches which have disappeared, may be mentioned the old Portuguese Church which gave its name to the street and which was "succeeded in 1797 by the present Roman Catholic Cathedral," and the old St. James's Church in Baitakhana.

#### THE OLD FORT AND THE COLLEGE.

The plot now occupied by the "General Post Office, the adjoining block of Government offices, the Custom House and the East India Railway House" was the site of the Old Fort William, so named after King William III. during whose reign it was built in the form of an irregular tetragon. Thanks to the labours of the late Dr. C. R. Wilson, the history of the Fort is now too well known to be retold. The building was so strongly constructed that, when in 1819 it was pulled down to make way for the Custom House, the "pick-axe or crow-bar was of no avail and gunpowder was obliged to be resorted to." The College attached to the Fort stood at the corner of Council House Street on the site of the present premises of the Bengal-Nagpur Railway Company. It was established by Lord Wellesley in 1800 for the education of young civilians something after the manner of Haileybury. The College was closed in 1828 and the building used for many years as the Exchange by Messrs. Mackenzie, Lyall & Co. In a portion of the house the *Bengal Harkaru* press was also located. On the site of the Oriental Bank, now known as the Royal Exchange, stood the house of Lord Clive and this gave its name to Clive Street of the present day. The building is said to have been rented in 1776 by Sir Philip Francis at £100 per month. Another

account, however, states that No. 9, Clive Street, now occupied by Messrs. Graham & Co., was the dwelling of the founder of Calcutta. The Bonded Warehouse, *opposite the Royal Exchange, was the home of Mrs. Frances Johnson, grandmother of the Earl of Liverpool* and better known by the name of "Begum" Johnson.

#### THE THEATRE.

At the south-west corner of Lal Bazar and opposite the Old Court House stood the structure where the first theatre in Calcutta was held. The playhouse was ~~situated~~ in the block to the north of Writers' Buildings now called 'China Bazar. It was served by amateur performers and is said to have equalled "the most splendid European exhibitions." The authorities graced the place with their presence and the managers sent, in 1772, a present of two pipes of Madeira to David Garrick for the trouble "that great actor had taken to promote their theatrical attempts at this distant quarter." A new playhouse furnished with windsails on the roof to "promote coolness by a free circulation of air" was built in 1775 at a cost of Rs 50,000 at the north-west corner of Lyon's Range on the site of the offices of Messrs. Finlay, Muir & Co., the former theatre being used for some time as an auction-room. In the ball-room attached to the new structure "state receptions and public breakfasts" were held till 1808. The Chowringhee Theatre was built in 1813 at the south-west corner of the present Theatre Road, which received its name from that circumstance. The building was destroyed by fire in 1839 and a temporary theatre was started on the site of the Ezra Buildings at the corner of Old Court House Street and Waterloo Street. Until very recently there was in Lindsay Street a wooden building known by the name

of the Opera House. It was once known as English's Theatre, and here on the night of January 1, 1876, Charles Mathews, Junior, played before King Edward VII., then Prince of Wales.

#### THE ICE HOUSE.

At the corner of Hare Street on the grounds now occupied by the garden attached to the Small Cause Court, was constructed, in the 'forties, "a strangely shaped globular building by Mr. Longueville Clarke, the well-known barrister, from the proceeds of public subscription (as well as a Government donation) for supplying the people of Calcutta with ice imported from Boston. Up to 1834 Calcutta got its supply of ice from the manufacturers at Hugli, but owing to the exigencies of the weather the quantity was very uncertain. On the construction of the building, ice was supplied to Calcutta by Mr. Frederick Tudor of Boston. His agent in Calcutta was one Mr. Bacon and the first cargo arrived with seven hundred tons of ice. In 1850 a Mr. Caleb Ladd was Mr. Tudor's agent for the sale of ice in Calcutta. On the 1st of January of that year a ghastly tragedy was enacted in the building, one Mr. John Knox, who though not connected with the ice concern, had his quarters in the house, being found murdered in his room. The house was dismantled in 1882 and the tragic event connected with it is all but forgotten. To the east of the ice house and on the site now occupied by the Small Cause Court buildings were the Marine House and Master Attendant's office. Before 1756 the "Marine House had been the mansion of the President outside the Fort and went by the name of the Company's House." The present Metcalfe Hall—that imposing structure representing the Tower of the Winds at Athens—which was erected to

*perpetuate the memory of Lord Metcalfe whose short term of office as Governor-General was signalised by that noble act, the emancipation of the Press, is said to stand on the site of the official residence of Roger Drake, Governor of Bengal and District Grand Master of the Freemasons. At that time the river flowed by the side of the house, and it was from here that, with a few followers, Drake escaped in a vessel down the river, when the future metropolis of India was besieged by the army of Siraj-ud-Daula in 1756.*

#### THE OLD MINT.

To the south of Metcalfe Hall and on the site now occupied by the Stationery Office stood the ship-building establishment of the Gillets. In 1791 the Dock having been filled up, the Old Mint was established here and Company's rupees coined till 1832 when the New Mint was constructed in its present quarters on the Strand Road beyond the Hugli Bridge. The old building (shewn as Nos. 4 and 5, Church Lane in Wood's map of 1784) came to be occupied by the Stamp and Stationery Committee. Messrs. Moran & Co., indigo brokers, had their firm in the adjoining house and their sales were advertised so late as 1870 and even when they had removed to Mangoe Lane, as being held at the "Old Mint Mart." Before 1791 "coinage was executed by contract," chiefly with John Prinsep, the famous father of six famous sons, who had an establishment for that purpose at Fulta. Mr. Prinsep is said to have made over his machinery to Government in 1784. "The first money was coined in Calcutta in 1762 with the Mughul's head and a Persian inscription." St. John's Church now marks the site of the powder magazine and the old Burial Ground. The old Post Office stood at the corner of Church Lane and Hastings Street, and the

house was afterwards occupied by Mrs. Eliza Fay, the authoress of *Original Letters from India*. A later Post Office was located in Old Post Office Street, to the opposite side of it (on land now covered by the High Court), being the house of Sir J. W. Colville. In the 'fifties and 'sixties the General Post Office stood in Hare Street at the corner of Bankshall Street on the site now occupied by the Small Cause Court and adjoining the Tudor Company's Ice House.

#### • THE COUNCIL HOUSE

stood on the western portion, while the New Government and Council Houses of Hastings' day occupied the southern compound of the present Government House. The Old Government House, where the Governor-General resided, was a large building in the centre of Fort William. A description of it will be found in Bishop Heber's *Narrative*. The Imperial Secretariat and Treasury buildings stand on the site formerly occupied by Spence's Hotel and the Old Loudon Buildings, so named after the Marchioness of Hastings who was Countess of Loudon in her own right. Here also was the house occupied by Sir Eyre Coote.

In front of Curzon Park (where until lately the Dharamtala Tank was situated) and on the site now occupied by the stately mansion of the Foreign and Military Departments, was a four-storeyed building known to Calcutta residents for a long time by the name of "charmahala," built by a Mr Gordon; it was called "Gordon's Folly" and must have been occupied by the Military Department during the 'thirties and 'forties, for we find it shewn as Mr. Gordon's House in Schalch's map of 1825, while a later map of Calcutta (Simms, 1847) locates the Military Department in it. Adjoining the structure stood the drapery establishment of Messrs.

Moore & Co. under the name of "Belati Bungalow." It was surmounted by a clock tower on which again, stood the figure of a lion.

#### THE OLD SUPREME COURT

stood on the site now occupied by the western portion of the High Court and was erected between 1780 and 1784. Though an imposing structure as regards its interior, its external appearance is said to have been the reverse. On the eastern side it was separated by a narrow lane from the dwelling-house of Mr. Longueville Clarke, the father of the Calcutta Ice House and founder of the Bar Library. The Court House was a two-storeyed building, the Grand Jury Room being on the upper floor while the lower flat was occupied by the Court room. The Asiatic Society of Bengal used originally to hold their weekly sittings in the Grand Jury Room.

#### A HAUNTED HOUSE.

In Calcutta as in other places there exist certain buildings which, for good reasons or otherwise, enjoy the reputation of being "haunted." Besides Hastings House, which has recently been taken over by Government for the purpose of being used as a State Guest House and the well-known ghost story connected with it, there stood in Free School Street a fine mansion adjoining the mosque that still faces the opening of Kyd Street, which was known as a haunted building. This was called Dr. Vos's house from the fact of Dr. J. G. Vos having lived here. Later on, it was used as a boarding-house for females and went by the name of the Ellerton Home. Owing to a dispute between the proprietors—two Mahomedan brothers, if our information is correct—the house was allowed to fall into disrepair and utter ruin till eventually it had to be pulled

down. The Free School stands on the site of the house occupied by Justice LeMaistre, one of the Judges of Impey's time. Established in 1789, it was the oldest educational institution in Calcutta and was "engrafted on the old Charity School" in 1800. The old house fell in 1854 through "jackals undermining the foundation" when the present spacious building was constructed.

#### SOME HOUSES IN CHOWRINGHEE.

On the ground now occupied by the Loretto Convent at the end of Middleton Row was a two-storeyed building which claimed for its occupant Sir Elijah Impey, the first Chief Justice of the Supreme Court. The house stood in an extensive deer-park surrounded by a fine wall with a circular tank in front. The park extended to Chowringhee Road on the west, an avenue of trees leading from the house northwards through Middleton Row into the main entrance at Park Street. "The present road runs over what was the carriage drive from Park Street to the house." At that time Chowringhee was considered "out of town" and wayfarers did not frequent the road except in large parties for fear of dacoits by whom the locality is said to have been infested. Impey's residence was guarded by a posse of sepoy who patrolled the house and grounds at night. The thoroughfare which was formerly known as Burying Ground Road obtained its modern name of Park Street from the fact of its leading to Sir E. Impey's park and house. The building, it may be stated, was in former days used as the garden house of Mr. Henry Vansittart, Governor of Bengal, and in a later year was occupied by Bishop Heber before he removed to No. 5, Russell Street. The first house in Russell Street, which has now been replaced by the building known as "Golightly Hall," is said to have

been constructed during the closing years of the eighteenth century by Sir Henry Russell, Chief Justice of the Supreme Court. It was in this building that Landor's early love, the Hon. Rose Aylmer, who had come out here as the guest of her aunt Lady Russell, spent her short Indian life, passing away at the age of twenty on March 2, 1800. It was to her that Walter Savage Landor wrote his well-known elegy. The house was used as a boarding establishment during the 'fifties and was tenanted in later years by Sir Barnes Peacock and Justice Norman. The premises at the corner of Kyd Street and Chowringhee recently occupied by the United Service Club covers the site of the residence of John Palmer already mentioned as the prince of Calcutta merchants. It was afterwards occupied by Dr. Simon Nicolson, Physician to Lord Dalhousie, who is described as having been the most celebrated medical man of his day in Calcutta. It is said that the avenue leading across the Maidan past the Mayo statue was constructed to enable him to have direct access from Chowringhee to Government House. The house had at one time been tenanted by Lieutenant-Colonel Robert Kyd, Military Secretary to the Government of Bengal, who was mainly instrumental in the establishment in 1787 of the Calcutta Botanical Gardens. Kyd Street was named after him.

The above are only a few instances of the architectural changes which the City of Palaces has undergone, induced in no small measure by the wants of progressive society.

KIRAN NATH DHAR, B.A.

#### Art. IV.—THE HINDU CASTE-SYSTEM.

THE *rationale* and genesis of the caste-system are to be found in the Bhagavat Geeta. Verse 41 of Chapter XVIII means thus : the actions of the four castes—Brahmana, Kshattriya, Vaisya and Sudra are divided according to their disposition and quality. That is to say, the principle of the division of society into castes or sections is based upon the nature of actions and qualities. And it stands to reason that there should be a test or differentiating cause for the classification of society. The Geeta then lays down the distinctive features of the four castes. Those of a Brahmana are tranquility, self-restraint, divine contemplation, forgiveness, candour, knowledge, experience and faith ; those of a Kshattriya are bravery, energy, firmness, skill, not to play the fugitive in battle, liberality and dignity of deportment ; those of a Vaisya are agriculture, tending of cattle and trade. The usual duty of a Sudra is service. This general outline of duties forms the land-marks, marking out the several castes. They qualify one to be ranked in one class or another. The possession of certain qualities or the pursuit of certain callings determines the nomenclature to be applied to a certain caste. So long as one possesses such qualities or pursues such callings, it is reasonable and proper to confine him to a certain class, of which such qualities or callings are its peculiar characteristics. But suppose a Brahman ceases to possess such qualities which entitle him to be ranked as such, in other words, he becomes *patit* or fallen in the language of the Shastras or adopts the avocations prescribed for the other castes, should he in the interests of individual and

social progress be still called a Brahmana and continue to enjoy the rights and privileges appertaining to the rank of a *Brahmana*? Again, suppose a *Sudra* gives up his menial occupations, is found possessed of high moral qualities or follows some honourable profession or calling, should we keep him in his degradation and not encourage him for his rectitude intelligence and diligence by promoting him to a class of which he is found deserving? The fact that Rishi Vishwamitra, a Kshattriya, was promoted to the rank of a Brahmana on account of his sanctity and learning goes to show that the Hindu Shastras do not present an insurmountable obstacle to such a promotion taking place. Hindu society has undergone considerable changes as regards the manners and customs, modes of living, and of transacting business of its members. Western ideas of civilisation have gone a great way towards modifying our primitive habits and practices

Under such circumstances Hindu castes should be reorganised on broad and liberal principles. We are not for doing away with caste-distinctions and mixing society pell-mell.

In the society of every nationality, constituted as it is at present, there must be Aryas and Sudras, Peers and Commons, Patricians and Plebeians so long as education which is the common leveller commencing from the higher orders is not filtered down to the lowest stratum of society. Education and moral worth and not the mere accident of birth should be the standard of caste distinction.

This leads to the discussion of the question whether the institution of caste is divine or human. Did God with nice discrimination mark out a certain class as his chosen or elect in preference to others which were not

deemed worthy of His favour ? Did he stamp upon it a certain permanent badge of superiority such as the sacred thread to distinguish it from others ? In other words, is a person born a Brahmana or made one ?

This question is solved in the well-known sloka which means that a person is born a Sudra, he becomes a *dwija* or the twice born by the performance of religious rites and sacraments, a *bipra* or the enlightened by the study of the Vedas and a Brahmana when he knows Brahma or the God.

From this it clearly appears that caste status cannot be claimed as a divine gift as is erroneously supposed by some orthodox Hindus, but is simply a mark of distinction based upon occupation, learning and character. The grouping of society into classes is based upon division of labour. Such a classification is artificial and not real, no calling or avocation as a means of honest livelihood should be condemned as ignoble. Each one is a link in the great chain binding together the multifarious divisions of society. Instead of being causes of insuperable barriers, these callings should be so many bonds of union among all classes in our society - a union of hearts, though not a union in respect of dining together or intermarrying with one another - a consummation of things which considering the present constitution of Hindu society is not easily practicable. It is only when through the influence of education all classes attain a tolerably uniform standard of intellectual and moral excellence that perfect social equality is possible. What is demanded in the interests of civilisation and national advancement is that some classes of society as such should not be regarded as heaven born and others as fallen. Neither the principle of indiscriminate brotherhood professing sympathy towards objects not deserving of it nor the

extreme denationalising tendency producing habits of exclusiveness and estrangement and hating everything native recommends itself to our judgment. The pretensions of the sacerdotal or Brahminical class expecting merely as such all other classes to prostrate themselves before and offer it servile obeisance are highly absurd. The official classification of the people into the upper, the middle and the lower classes of society based upon money qualifications is open to the objection that it does not give due weight to the more substantial qualities of the head and heart. But looking at the matter more closely it appears that this sort of distinction is perfectly innocuous in its effects as it is required for statistical or descriptive purposes. It is not meant to imply disparagement of obscure merit or virtuous indigence. The object of the social reformer is to introduce such improvements among all the classes as may result in a state of equality. But arbitrary caste distinctions or precedence of one caste over another based not upon intrinsic merit but upon vague traditionary reports are not justifiable. A person succeeding to a very large fortune may justly be classed among the rich but not among the virtuous and good if he lacks those noble qualities which distinguished his ancestors. For this reason the undeserved popular homage which it has become customary to pay to mere fortune is objectionable. The objects of such adulation are generally spoilt as it takes away from them the strongest motive to rest the fame of their exalted position upon a sure footing. An heir succeeding to a large fortune surrounded by sycophants and toadies whom he would have put to blush if he had such culture of mind as to realise the emptiness of unmerited and interested applause, may dissipate his wealth in gambling, debauchery and reckless extravagance. Such

silly and thoughtless commendation vitiates the public taste, impairs independent judgment, holds out a premium to indolence and imbecility, gives undue preference of fortune to merit and thereby obstructs or retards social progress by withholding encouragement and support from men of sterling but unknown merit through whose unappreciated philanthropic exertions and unsympathised noble sacrifices progress is effected. That caste system is a human institution is further proved from the historical account of the system to be found in standard works of Indian history. This account shows that a gross superstition was the result of the monopoly in religious knowledge enjoyed by the higher classes—that knowledge which was the birth right of all Hindus for three thousand years, that knowledge without which a nation is dead.

Hindu society is divided into numerous classes, each class generally pursuing a different occupation or calling. Among the Mahomedans as with the Europeans, the nature of a man's occupation does not create caste distinctions. No doubt wealth confers respectability, but there is nothing to prevent a rich Mahomedan merchant from intermarrying or dining with a petty Mahomedan trader. Not only the primary castes, Brahmanas and Sudras, but the endless sub-divisions of the latter on account of their following different avocations stand aloof from each other in social intercourse. Weavers, potters, blacksmiths, carpenters, oilmen, washermen, barbers, etc., are so many sub-castes. Let us now point out some of the advantages and disadvantages of the caste system. No human system is thoroughly perfect. Allowing for the shortcomings of our limited range of vision and experience, the influence of passion or prejudice which clouds our

judgment to see things in their true colours, the omnipotence of habit which is aptly called second nature tending to produce stolid conservatism unwilling to part with what it has been long familiarised, the best course for us should be to allow a system or practice to stand if by balancing the advantages with its disadvantages the former are found to outweigh the latter. The system should not be eradicated but pruned down and trimmed so as to afford room for future luxuriant and improved growth. The thought and manners of the West permeate those of the Indians and social revolution without healthy reform must be deplored when questionable canons are introduced into the system. Organisation and not disorganisation should be the motto in the adjustment of society, and it must needs be a matter for serious apprehension when revolution seeks to occupy the place of reform.

As to know a disease is half the cure, some of the defects of the caste-system may be pointed out so that these may be removed when the public mind is thoroughly alive to them.

In the first place caste pride deters most of its members from taking to pursuits which are useful and profitable but which these snobs consider as menial and beneath their dignity. Sir William Hunter mentions in his "Annals of Rural Bengal" that during the famine of 1866 it was found impossible to render public charity available to the female members of the respectable classes and many a rural household starved slowly to death without uttering a complaint or making a sign. The same authority has pointed out the economic defects of the Hindu caste system. Accustomed to look upon toil as a work of slavery, the Hindus have never worked more than was necessary

to supply their wants. Capital, therefore, the surplus of production above consumption, has never existed; and in the absence of Capital any high advance in material civilisation is impossible. Another element of such an advance, co-operation, has been unknown. Division of labour in its literal sense of giving to every man a separate employment has indeed been carried to its utmost length, but the division of labour in its economical signification as a method of co-operation has been rendered impossible by the contempt which divides man from man. On this subject false appearances and inaccurate names for such appearances have led many writers into error. Division of labour as a term of political economy means a division of processes in order to an ultimate combination of results. Division of labour as predicable of Indian arts or manufactures means a division of results effected by a combination of processes. Our social organisation and economy has been much affected by the influence of foreign civilisation to the detriment of our indigenous industries. The levelling tendency of Western education is a potent factor in the poverty of the country. The men who were instrumental in the introduction of Western education into India fondly believed that that education would level up. They imagined that European literature and science would succeed in destroying the caste-system and thus in bringing about a fusion of the multifarious Hindu castes into one. All that European literature and science have succeeded in doing is making each separate caste into a social republic which owes only a nominal allegiance to the Brahmans but which is thoroughly independent of the other castes. The wisdom of the West has succeeded in disintegrating so far the social polity of India. And

it is doubtful whether any further disintegration is possible in this direction. At all events it is doubtful whether such disintegration will ever do any good to the Indian people. The results which have flowed from it are far from encouraging. For the results have been that the so-called lower castes, the castes which had hitherto represented the industrial classes have forsaken and are daily forsaking the industries in which their ancestors had excelled and are jostling with the higher or intellectual castes in the learned professions in the hope of becoming gentlemen. The education of the West, it must be held, has brought in its train a snobbishness which in times past was entirely foreign to the Hindu nature and the existence of which was impossible under the iron rule of the caste-system as it stood in pre-British times. All this as much as the competition of the West is responsible for the death of our indigenous industries. There is no doubt of the fact that these industries were placed at a fearful disadvantage when they had to face the competition of the West supported as the latter was by all the discoveries and appliances of modern science which have taken captive the forces of nature and are making them work for the benefit of man. But if we consider the situation calmly we must admit that there were other causes at work besides the competition of the West. In the present state of things the only course left open to our people is for the intellectual classes to take to some of the industries and thus show to the people that they are their real leaders. It is time for the intellectual castes to show by practice that their belief in the dignity of labour is a sincere and honest belief and not a mere sham.

By co-operating with the people the intellectual classes can not only promote the material prosperity of

the country, but remove all causes of strife and dissension among them. A careful insight into Hindu society cannot fail to disclose real homogeneity amidst apparent heterogeneity. Some European writers erroneously believe that the Indo-Aryans treated the Sudras after the manner of Russian serfs, Greek helots or Roman plebeians. They were regarded more as children and dependents than as slaves or conquered people. There was not that feeling of humiliation and self-abasement under foreign yoke on the one hand and that haughty, domineering and insulting deportment as is observed between ~~the~~ Indians and the Anglo-Indians. The principal duty of Hindu Kings was to please their subjects and consult their real interests. They were looked up to as the natural leaders and rulers of mankind and their authority was supported more by moral and spiritual force than by an animal one. Their easy subjugation by marauding and plundering barbarians was not due to the discontent of their subjects or want of social amalgamation but to their apathy and indifference to material prosperity and self-aggrandisement, their heart being more bent upon securing a place in heaven than upon consolidating an empire on earth. But whatever may have been the state of things in ancient times, it is evident that the Hindu castes as they stand at present are drawn towards one another by ties of sympathy and common religion. "The system of caste," says Sir Henry Cotton, "far from being the source of all the troubles which can be traced in Hindu society has rendered the most important service in the past and still continues to sustain order and solidarity. The admirable order of Hinduism is too valuable to be rashly sacrificed before the Moloch of progress

Better is order without progress if that were possible than progress with disorder."

The agitation in connection with the Consent Act has shown that caste distinctions do not stand in the way of the Hindus uniting for the defence of their religious rights. The history of the Indian National Congress goes to show satisfactorily that in spite of caste distinctions and wide differences of race and creed, the Indians can unite nationally for the enforcement of their political rights. Like Sir Henry Cotton, Dr. Hunter has also paid a well-deserved tribute of praise to the Hindu caste-system. "The system of caste," he says, "exercises a great influence upon the industries of the people. Each caste is in the first place a trade guild. It ensures the proper training of the youth in its own special craft; it makes rules for the conduct of business and it promotes good feeling by feasts or social gatherings. The famous manufactures of mediæval India—its muslins, silks, cloths of gold, inlaid weapons and exquisite works in precious stones—were brought to perfection under the care of the castes or trade guilds. Such guilds may still be found in full work in many parts of India."

K. C. KANJILAL, B. L.

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## Art. V.—HISTORY OF JOURNALISM IN INDIA.

### IV.

#### I—BENGAL.

THE same liberality of sentiment which actuated Lord William Bentinck to render the Indian Press substantially free, and to allow official men to canvass unreservedly the measures of Government in the public journals under anonymous signatures\* with a degree of fearlessness and freedom altogether unexampled, in consequence of which some of the ablest papers which have ever been published on Indian matters, appeared in the papers of the day, also prompted his successor, Lord Auckland, not only to support heartily the liberation of the Indian Press as effected by Sir Charles Metcalfe, but also to press on the Court of Directors the necessity of recalling the very impolitic prohibition which then existed against any of their servants being connected with the Indian Press in virtue of the restrictions imposed, as we have seen before, in Lord Amherst's time. Lord William Bentinck's liberal administration made these restrictions totally inoperative, and it remained for Lord Auckland to point out to his masters that the old and restrictive policy had become superannuated by the progression of public opinion in India, and that it should be formally revoked to permit a free intercourse between the Service

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\* Under the signature of "Indophilus" Sir Charles Trevelyan always wrote in the papers. "Brahmines Bull" was Sir Harry Lawrence's pseudonym; "Ghost of a Salt Officer" and "Bol Ponjis" those of Henry Meredith Parker; "Nambarnip," "Griffith," "Endeavour" and "Fiat Justitia" were the *pen-de-plumes* under which Captain Robert Adair Macnaghten used to write. The letters of the *Ghost of Goida* which appeared in the *Bengal Hurkaru* and which stirred Lord Dalhousie to appoint a Police Commission, were written by a servant of Government.

and the Press. A correspondence then followed between the Indian Governor-General in Council and the Court of Directors at home, the result of which was the following Notification :—

No. 1608, Notification, Fort William, Political Department, the 28th June 1841.—With reference to a Notification from the General Department of the 11th May, 1826, the Governor-General in Council is pleased to notify that by para. 3 of a letter of the Hon'ble the Court of Directors in the Political Department, dated 21st April No. 9 of 1841, the existing prohibition against the connection of their Servants with the public newspapers has been revoked, subject to the restraints upon Military Officers by the rules of the service.

By order of the Right Honourable the Governor-General of India in Council.

T. H. MADDOCK,

*Secretary to the Government of India.*

Another important question regarding the relation of Government with the Press which for some time engaged the attention of Lord Auckland was one of establishing a Government paper to expound and support its measures. This question did not arise in Lord Auckland's *regime* for the first time. It was originally brought under the discussion of the Court of Directors by the Marquis of Wellesley whose special pleading for a Government organ in Bengal we have read already. The Court of Directors did not sanction the plan of Wellesley for a Government paper. In Lord Auckland's time it arose for the second time in the following way, and received all that attention from the Indian Governor-General in Council which its importance demanded. The question was brought under discussion by a communication from Calcutta for instructions relative to the

appointment of an editor of the *Calcutta Courier*,\* then a daily paper, and a formal proposition from Bombay for securing some one paper in the interest of the Government at that Presidency. Sir William Hay Macnaghten,† then Secretary to the Government of India in the Secret and Political Departments, strenuously urged upon the attention of Lord Auckland not only to approve the proposal of the Bombay Government for having a Government organ, but also to adopt the same arrangement in Calcutta, either by subsidising the *Calcutta Courier* or by starting a new paper as a Government organ. A consultation took place in which, besides the official men like Ross Donnelly Mangles, Frederick Halliday, William Hay Macnaghten, non-officials like John Clark Marshman, editor of the *Friend of India*, Joachim Hayward Stocqueler, editor of the *Englishman*, George Prinsep, editor of the *Calcutta Courier*, and several others, took a prominent part. The result of the deliberation was that Lord Auckland did not deem it advisable to depart from the general principle on which he had always acted—of obtaining an influence over as many papers as were disposed to deal fairly and reasonably with Government, but to avoid any direct and

\* On the 4th April, 1832, the *Calcutta Courier* was begun to be published by the Military Orphan Society as a bi-weekly paper in the place of the *Government Gazette* which ceased to appear under the authority of Government after its issue of the 29th March, 1832. The Government began to publish the *Calcutta Gazette* under its authority from the 1st April, 1832, and the Military Orphan Society changed the name of the *Government Gazette* to the *Calcutta Courier* from the above date. The first editor was Mr. George A. Prinsep. There were both daily and bi-weekly issues of the *Calcutta Courier*. In the beginning of 1837, Mr. George A. Prinsep, the editor, became seriously ill, and the Military Orphan Society sought instructions from the Government of Lord Auckland for the appointment of his successor, as there was then some close relation between Lord Auckland and the editor of the *Calcutta Courier*. The Governor-General eventually declined to have any voice in the appointment of the editor of the paper. Mr. Prinsep died in December 1837, and the General Management of the Military Orphan Society selected Mr. Frederick Osborne of the Calcutta Bar to succeed Mr. Prinsep as editor of the *Calcutta Courier*.

† On 23rd December, 1841, he was treacherously killed by the son of Dost Muhammad at Kabul where he went as British Envoy.

exclusive connection with any of them. The reasoning on which this determination was based, will now afford a good idea of the manner in which Lord Auckland was accustomed to consider the various public questions which were brought before him. He considered that in India there was no Government party from which a paper on the Government side would receive a large independent support. In England, the Government or the Opposition papers supported the *principles* of their different parties, and the more consistent and respectable among them acquired on that account both credit and influence. They maintained a friendly connection, if on that side, with the Government, but they could not be identified with the Government. In India, the Army cared for its own interests—the lawyers, merchants and English settlers for theirs,—while the Civil Servants were too small and divided a body to form a powerful united interest. Among all these classes, there were moderate and fair-judging men who would read with attention well-written and accurate expositions of the acts or motives of the Government, but there was no great number who would take in a paper, because the Government was generally defended by it. Such a paper would have, therefore, to lean for support chiefly on the Government itself, and it would come to be regarded as a mere Government Organ. Then would follow all the disadvantage of the Government being rudely attacked where it could carry on no equal contest. The Government paper must be dull and true. Against it would be hurled every weapon of abuse and misrepresentation ; wit and satire ; scandal and personality. Even if the journal was not an avowed organ of Government, it would inevitably be regarded as a Government paper, when the editor was discovered

to have been appointed at the suggestion of Government, and was seen to possess something of a monopoly of early intelligence. The effect of a monopoly of this kind would certainly be to turn all other papers against it. Government would have one weak friend—not respected, because not supposed to be independent—and all else incensed and interested foes.

Arguing in the foregoing way, Lord Auckland not only rejected the proposal of the Bombay Government for securing some one paper in the interest of Government at that Presidency, but also refused to appoint an editor of the *Calcutta Courier* on the part of Government. So long as Lord Auckland remained in Calcutta a certain degree of civility was maintained with all the papers, with one or two (the *Englishman* and the *Calcutta Courier*) a closer connection. Items of intelligence were distributed among them and were most gratefully received. This privilege was much valued for news in this country then was scarce and a reputation for obtaining what there was, was much prized. By this means, there was little difficulty in obtaining, somewhere or other, publication for any fact or statement which it was considered desirable to make known—and a generally temperate tone in the newspapers was pretty well preserved in Lord Auckland's time. It was this mode of influence which Lord Auckland would prefer to any such more direct measure as that which had been suggested to him by the Bombay Government. On the 28th February, 1842, Lord Ellenborough succeeded Lord Auckland as Governor-General of India. He seldom read Indian newspapers, and the cordial relations which existed between his immediate predecessor and the Calcutta editors became extinct in his time. On the 30th August, 1843, in a fit of vexation at Colonel

'Sleeman's appeal' to the Press in defence of his own character, Lord Ellenborough passed the following order :—

No. 150, Fort William, Foreign Department, the 30th August, 1843 :—Some misconception appearing to exist with respect to the power which Officers of both Services have over the documents and papers which come into their possession officially, the Governor-General in Council deems it expedient to notify, that such documents and papers are in no case to be made public, or communicated to individuals without the previous consent of Government to which alone they belong.

The Officer in possession of such documents and papers can only legitimately use them for the furtherance of the Public Service in the discharge of his official duty ; and it is to be understood that the same Rule which applies to documents and papers applies to information of which Officers may become possessed officially.

By order of the Right Honourable the Governor-General of India in Council.

J. THOMASON,

*Secretary to the Government of India.*

This order effectually neutralised the liberal Notification of the Court of Directors issued in 1841 under the inspiration of Lord Auckland, and fatally extinguished

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\* In August, 1843, Colonel (afterwards knighted) William Henry Sleeman became the object of repeated vituperation in the columns of the *Delhi Gazette* for his mismanagement of the Bundelkhund and Saugor territories of which he was then Assistant Agent to the Governor-General. In this attack of Colonel Sleeman's administration the *Bombay Times* was enlisted by his enemies. Instead of remaining silent, Colonel Sleeman took the wise course of making the Press which had been the instrument of abusing him, the channel of his vindication. On the 2nd August, 1843, from Jhansee, Sleeman addressed a letter to the *Bombay Times* completely refuting the charges hurled against his public character. In this letter which was published in the *Bombay Times* on the 12th August, 1843, he enclosed translations of the official documents which were submitted by him to the Right Honourable the Governor-General of India, Lord Ellenborough, as well as the correspondence which accompanied them. In the *Bombay Times*, these secret confidential official documents were published along with Colonel Sleeman's defence, for corroboration. Lord Ellenborough was greatly displeased at the disclosure of the official documents containing his own orders. Hence His Lordship passed the above order forbidding all Government servants to disclose official documents and information.

the bright prospects which were opened in regard to the improvement of the country by free intercourse between the servants of the Company and the Press. Strange as it may appear now, it is an undeniable fact that the only measure of Lord Ellenborough's Government, in India which the Court of Directors had regarded with complacency and acted on, was the above order which nullified their own order and prohibited the communication of all information\* officially obtained. During the next two Governor-Generalships of Lord Hardinge and Lord Dalhousie, the relation of Government with the Press was not in any way disturbed, though in 1849, baseless rumours that Lord Dalhousie contemplated founding an Official organ to support his Annexation Policy were published in the newspapers. Dalhousie might have thought over such a scheme, but never allowed it to go forth to the public either for discussion or for opinion. His attitude towards the Press was one of studied indifference.

Next we come to the time of Lord Canning when the liberty of the Press was thought incompatible with the state of insurrection. Freedom of publication was regarded as dangerous to the well-being of the State and had to be suppressed in consequence for a season. Before the Mutiny actually broke out, a series of intemperate articles were published by the English newspapers

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\* The most unfortunate victim of the above notification was Captain Joseph Davey Cunningham, the famous historian of the Sikhs. While Agent at Bhopal in 1849, he published his memorable *History of the Sikhs*, which, though favourably received in general, gave offence to some of his superiors as he stated that in the First Sikh War, where he was present as a Captain, two of the Sikh generals were bought by the British Generals. This was strenuously denied by the high officials, and the result to Cunningham was the loss of his political appointment and his relegation to ordinary duty by Lord Dalhousie, on the ground of his having used in his *History* information confidentially known to him in his official capacity. The circulation of the first edition of this *History* was also stopped as far as possible by the Government. The author died heart-broken on 28th February, 1851, at Umballa.

of Calcutta and Bombay, especially in the *Bengal Hurkaru* and the *Bombay Times*. The former was then edited by Sidney Laman Blanchard,\* and the latter by Dr. George Buist. Lord Canning thought that these articles might, if perverted by translation, have a very mischievous effect. So, on the 13th June, 1857, Lord Canning called a meeting of the Indian Legislative Council, and in a speech of half an hour's duration, proposed the following Gagging Act, to be applied to all Indian newspapers, European and Native. The Law passed through the second and third stages in ten

\* Eldest son of Samuel Laman Blanchard, commonly known as Lama<sup>n</sup> Blanchard, the friend of Douglas Jerrold and Bulwar-Lytton, and well-known in London literary circles in the first quarter of the nineteenth century. He was born about 1825 and began his career, after the death of his father in 1845, as Private Secretary to Benjamin Disraeli, then a rising English statesman, and afterwards Premier of England and first Earl of Beaconsfield. In 1854, he first came to Calcutta and became editor of the *Bengal Hurkaru*, which post he held up to the outbreak of the Sepoy Mutiny in June 1857. It used to be said that owing to Blanchard's attacks in the *Bengal Hurkaru* on his pro-native attitude that Lord Canning introduced his Gagging Act which not only resulted in the suppression of the paper for five days (from the 19th to the 24th September), but also in the editor's resignation of his office to appease the Governor-General's Council. On the suppression of the Revolt, Messrs. A. O. Hume, H. G. Keene and others, formed a small syndicate at Allahabad to conduct a journal in the North-Western Provinces under the ambitious title of "The New Times for all India." The editorial chair was given to Sidney Laman Blanchard. The paper did not last long, and Blanchard returned home in 1864. In England he supported himself mainly by contributing to current literature. In 1873, he was sent out by General Nassau Lees, proprietor of the *Times of India* under a contract to take a part in the editing of the *Times of India* as assistant editor. On his second journey to India he accompanied the late Mr. Grattan Geary who also came out as General Manager of the *Times of India*. But Blanchard and the Manager seem to have early disagreed. The Proprietor took sides with the Manager, and Mr. Blanchard was required summarily to leave the office. He sued for damages which the Bombay High Court assessed at ten thousand rupees. With this sum Blanchard purchased the *Indian Statesman* from its proprietor, the late Mr. Robert Knight, in the middle of 1875. The *Indian Statesman*, however, did not flourish under his direction, although he was a clever and capable writer, but too guileless to combat the subtleties which permeate journalism in the East. In 1876, he was obliged to sell the plant of the newspaper and declared himself an insolvent. The machinery and working plant of the *Indian Statesman* were sold by the Official Assignee of Bombay. Blanchard then joined the *Civil and Military Gazette* of Lahore for a time and returned to England about 1880. He died at Brighton in November 1883. He married Miss Helen Carmichael, daughter of Dr. Hugh Carmichael. On the 15th March, 1855, the ceremony took place at the old St. James Church, Calcutta, and was repeated the same day at the Roman Catholic Church of the Sacred Heart at Dhurumtollah. In 1862, he wrote *The Ganges and the Seine*; Scenes on the banks of both, 2 vols.; in 1866, *Yesterday and To-day in India*; in 1871 *Kiddies of Love or the Knaves of Hearts*, 2 vols.

minutes, and Lord Canning assented to it at once. The members present did not offer a word of objection to the measure.

Legislative Council, 13th June, 1857.

The following Act, passed by the Legislative Council of India, received the assent of the Right Honourable the Governor-General this day, and is hereby promulgated for general information.

Act No. XV of 1857.

“An Act to regulate the establishment of printing presses and to restrain in certain cases the circulation of printed books and papers.”

Whereas it is expedient to prohibit the keeping or using of printing-presses, types, or other materials for printing, in any part of the territories in the possession and under the Government of the East India Company, except with the previous sanction and license of Government, and under suitable provisions to guard against abuse; and whereas it may be deemed proper to prohibit the circulation, within the said territories, of newspapers, books or other printed papers of a particular description : It is enacted as follows :—

I. No person shall keep any printing press or types, or other materials or articles for printing, without having obtained the previous sanction and license for that purpose of the Governor-General of India in Council, or of the Executive Government of the Presidency in which such printing-press, types, or other materials or articles for printing are intended to be kept or used, or of such other person or persons as the Governor-General of India in Council may authorise to grant such sanction or license; and any person who shall keep or use any printing-press, or types, or other materials or articles for printing, without having obtained such license, shall be liable, on conviction before a magistrate, to a fine not exceeding five thousand rupees, or to imprisonment not exceeding two years, or to both.

II. If any person shall keep or use any printing-press, or types, or other materials or articles for printing, without such

sanction or license as aforesaid, any magistrate, within whose jurisdiction the same may be found, may seize the same, or cause them to be seized, together with any books or printed papers found on the premises ; and shall dispose of the same as the Governor-General of India in Council, or the Executive Government of any Presidency, or such other person as the Governor-General in Council shall authorise in that behalf, may direct, and it shall be lawful for any magistrate to issue a search warrant for the entry and search of any house, building or other place, in which he may have reason to believe that any such unlicensed printing-press, types, or other materials or articles for printing are kept or used.

III. Whenever any person or persons shall be desirous of keeping or using any printing-press, or types, or other materials or articles for printing, he or they shall apply by writing to the magistrate within whose jurisdiction he proposes to keep or use such press or other such materials or articles as aforesaid, or to such other persons as the Governor-General in Council, or the Executive Government of the Presidency, or such other person as the Governor-General in Council shall authorise in that behalf, may appoint for the purpose. The application shall specify the name, profession, and place of abode of the proprietor or proprietors of such printing-press, types, or other materials or articles for printing, and of the person or persons who is or are intended to use the same, and the place where such printing-press, types, or other materials or articles for printing are intended to be used, and such application shall be verified by the oath, affirmation or solemn declaration of the proprietors and persons intending to keep or use such printing-press, types, or other materials or articles for printing, or such of them as the magistrate or other person to whom the application shall be made shall direct, and any person wilfully making a false oath, affirmation or declaration, shall be deemed guilty of perjury.

IV. The magistrate shall forward a copy of such application to the Governor-General in Council, or to the Executive Government of the Presidency, or to such other person as may be authorised to grant the license ; and the said Governor-

General in Council, or such Executive Government, or other person as aforesaid, may at his or their discretion, grant such license subject to such conditions (if any) as he or they may think fit, and may also at any time revoke the same.

• V. If any person or persons shall keep or use, or cause or allow to be kept or used, any such printing-press, types, or other materials or articles for printing contrary to the conditions upon which the license may have been granted or after notice of the revocation of such license shall have been given to, or left for, him or them at the place at which the printing-press shall have been established, he or they shall be subject to the same penalties as if no such license had been granted ; and such printing-press, types, and other materials or articles for printing may be seized and disposed of in the manner prescribed in Section II of this Act.

VI. All books and other papers printed at a press licensed under this Act, shall have printed legibly thereon the name of the printer and of the publisher, and the place of the printing and publication thereof ; and a copy of every such book or printed paper shall be immediately forwarded to the magistrate or to such other person as the Government or other persons granting the license may direct ; and every person who shall print or publish any book or paper otherwise than in conformity with this provision, or who shall neglect to forward a copy of such book or paper in manner hereinbefore directed, unless specially exempted therefrom by the Governor-General in Council, or other person granting the license, shall be liable on conviction, before a magistrate, to a fine not exceeding one-thousand rupees, and in default of payment to imprisonment for a term not exceeding six calendar months. •

VII. The Governor-General of India in Council, or the Executive Government of any Presidency may, by order to be published in the Government Gazette, prohibit the publication or circulation, within the said territories, or the territories subject to the said Government, or within any particular part of the said territories, of any particular newspaper, book, or other printed paper, or any newspaper of any particular description, whether printed within the said territories or not ; and whoever,

after such prohibition, shall knowingly import, publish or circulate, or cause to be imported, published or circulated any such book or paper, shall be liable for every such offence, on conviction before a Magistrate, to a fine not exceeding five thousand rupees, or to imprisonment not exceeding two years or to both ; and every such book or paper shall be seized and forfeited.

VIII. The word "printing" shall include lithographing. The word "magistrate" shall include a person exercising the powers of a magistrate, and also a Justice of the Peace ; and every person hereby made punishable by a Justice of the Peace may be punishable upon summary conviction.

IX. Nothing in this Act shall exempt any person from complying with the provisions of Act XI of 1835.

X. No person shall be prosecuted for any offence against the provision of this Act, within fourteen days after the passing of the Act, without an order of the Governor-General in Council or the Executive Government of the Presidency in which the offence shall be committed, or the person authorised under the provisions of this Act to grant licenses.

XI. This Act shall continue in force for one year.

#### NOTIFICATION.

FORT WILLIAM, *Home Department*, 18th June, 1857.

With reference to the provisions of Act No. XV of 1857, it is hereby notified that application for licenses to keep or use any printing-press, or types, or other materials or articles for printing within the town of Calcutta, are to be made to the Commissioner of Police.

The Lieutenant-Governor of Bengal is authorised to grant licenses under the said Act, and to appoint any person or persons to receive applications for such licenses in any part of the lower provinces of the Presidency of Bengal except the town of Calcutta.

The Lieutenant-Governor of the North-Western Provinces is authorised to grant licenses under the said Act, and to appoint any person or persons to receive such applications in

any part of the North-Western provinces of the Presidency of Bengal.

The Governor of the Straits Settlements, the Chief Commissioners of the Punjab and Oude, and the Commissioners of Mysore, Coorg, Nagpore, Pegu and the Tenasserim and Martaban provinces, are authorised severally to appoint any person or persons to receive such applications within the provinces, districts and settlements under their control.

The conditions upon which licenses to keep or use any printing press or types, or other materials or articles for printing will ordinarily be granted, are as follows.—

1. That no book, newspaper, pamphlet, or other work printed at such press, or with such materials or articles, shall contain any observations or statements impugning the motives or designs of the British Government, either in England or India, or in any way tending to bring the said Government into hatred and contempt, to excite disaffection or unlawful resistance to its orders, or to weaken its lawful authority, or the lawful authority of its civil or military servants.

2. That no such book, pamphlet, newspaper or other work, shall contain observations or statements having a tendency to create alarm or suspicion among the native population of any intended interference by Government with their religious opinions and observances.

3. That no such book, pamphlet, newspaper, or other work, shall contain observations having a tendency to weaken the friendship towards the British Government of native princes, chiefs, or states, in dependence upon or alliance with it.

The above conditions apply equally to original matter, and to matter copied from other publications.

A copy of every book, pamphlet, newspaper, or other work published in the town of Calcutta, is to be immediately forwarded to the Commissioner of Police.

By order of the Right Hon. the Governor-General in Council.

CECIL BEADON,

*Secretary to the Government of India.*

At the meeting of the Legislative Council held on the 13th June 1857 at which the above Act was passed, there were present Lord Canning, the Governor-General, President in the Chair, the Hon'ble J. A. Dorin, Vice-President ; the Hon'ble Chief Justice, Sir James William Colville, of the Calcutta High Court ; the Hon'ble Major-General J. Low ; the Hon'ble J. P. Grant ; the Hon'ble B. Peacock ; Mr. Currie ; Mr. Le Geyt ; and the Hon'ble Sir Arthur Buller. Lord Canning said : "Before the Council proceeds to the Order of the Day, I ask permission to bring before it a subject of pressing and paramount importance. Those whom I have the honour to address, are well acquainted with the present aspect of public affairs in the northern parts of India. The general disaffection of the Bengal Army in the North-Western Provinces, the lawlessness and violence of the evil-minded part of the population to which this disaffection has given opportunity and encouragement, the pillage, the heart-rending loss of life, and the uprooting of all order in that part of the country, are painfully notorious. I will not dwell upon them. Neither will I trace the causes which have led to these calamitous results, or describe the means by which the Government is meeting and repressing them. But there is one quarter to which I desire to direct the attention of the Council—a quarter from which the evil influences which now pervade so many minds have been industriously put in motion, and to which a large portion of the discontent instilled into our troops and our ordinary harmless and peaceable community, is attributable. I doubt whether it is fully understood or known to what an audacious extent sedition has been poured into the hearts of the native population of India within the last few weeks under the guise of intelligence supplied to

them by the native newspapers. It has been done sedulously, cleverly, artfully. Facts have been grossly misrepresented—so grossly, that, with educated and informed minds, the very extravagance of the misrepresentation must compel discredit (hear, hear). But to native readers of all classes scattered through the country, imperfectly acquainted with the proceedings of the Government, and not well instructed as to what is passing even immediately around them, these misrepresentations come uncontradicted and are readily credited.

In addition to perversion of facts, there are constant vilifications of the Government, false assertions of its purposes and unceasing attempts to sow discontent and hatred between it and its subjects.

Again opportunities have been taken to parade before the eyes of the inhabitants of the capital and of our soldiery and subjects elsewhere, a traitorous proclamation put forth by those who are in arms against the Government in the North-Western Provinces crying for the blood of Europeans, offering rewards for rebellion and denouncing all who shall continue faithful to the Government.

I am speaking to a body whose Members have more experience of the native character, and of the working of the native mind than I possess. But it needs little of this to see that it is impossible that all this mischief can be afoot and unrestrained without producing wide-spread disaffection, lamentable outbreaks and permanent injury to the authority of Government.

Against such poisoned weapons, I now ask the Legislative Council to give to the Executive Government the means of protecting itself, its army and its subjects; and I know no means by which this can be effectually accomplished other than a Law which shall give to the

Executive Government a more absolute and summary control over the Press than it now has in its hands. With this view, I propose to introduce a Bill this day and as a preliminary step, I move that the Standing Orders be suspended, in order that the Bill may be carried through its several stages, and passed forthwith.

The several provisions of the Bill will be read *in extenso* by the Clerk of the Council. The measure is framed upon the principle that no Press shall exist without a license from the Government, that the license shall be granted by the Governor-General in Council under such conditions as he may think fit; on the infraction of any of these conditions, it shall be in the power of the Governor-General in Council, and, in the distant parts of the Empire, of local Governments to whom he may delegate the authority, to withhold such licenses, or, if one has been already granted, to recall it.

One of the sections provides that the Bill shall have effect for one year, and for one year only. At the end of that period, the subject will again be before the Legislative Council, and the Legislative Council would know how to deal with it according to the circumstances of the moment.

It is also provided that the Bill shall be applied, not only to Bengal, but to all India. The question involved is one which, in my opinion, deserves not only at the present juncture, but at all times, to be treated as an imperial one (Hear, hear). It is a question in regard to which India should be ruled by one authority (Hear, hear). I also propose that the Act shall extend to all periodical and other publications, European as well as Native, whatever their condition or character.

The remarks which I have taken occasion to make with reference to the Native Press, I do not direct to

the European Press. But I see no solid standing ground upon which a line can be drawn marking off one from the other when the question is to prevent matter calculated to work mischief at a crisis like this. For whilst I am glad to give credit to the conductors of the European Press for the loyalty and intelligence which mark their labours, I am bound by sincerity to say that I have seen passages in some of the papers under their management which, though perfectly innocuous so far as European readers are concerned, may, in times like the present, be turned to the most mischievous purposes in the hands of persons capable of dressing them up for the native ear. I am glad to admit that the Bill is not especially levelled at the European Press; but I do not see any reason, nor do I consider it possible in justice to draw a line of demarcation between European and Native Publications. The Bill accordingly applies to every kind of publication, whatever the language in which it may be printed or the nature of the persons who are responsible for what is put forth in it.

I cannot conceal from the Council that I have proposed this measure with extreme reluctance. It is one which no man bred in the atmosphere of English public life, can propose to those who are vested with the high authority of legislating for English dominions without some feelings of compunction and hesitation. But there are times in the existence of every State in which something of the liberties and rights which it jealously cherishes and scrupulously guards in ordinary seasons, must be sacrificed for the public welfare. Such is the state of India at this moment. Such a time has come upon us. The liberty of the Press is no exception. And now, upon my responsibility as the Head of the

*Government of India, and with the unanimous support of the colleagues, with whom I have the honour and satisfaction to act, I ask the Legislative Council to strengthen the hands of the Executive Government by investing it with the powers which will be given by the Bill which I here lay on the table."* (Hear, hear).

His Lordship then moved that the standing orders be suspended, in order that he might carry the Bill through its several stages forthwith. The motion was seconded by Mr. Dorin and agreed to. On the motion of the President, the Bill was read a first and second time. The President then moved that the Council resolve itself into a committee on the Bill. The Chief Justice of the Calcutta High Court then rose and said :

he should venture to offer a few observations—which perhaps, he ought rather to have made on the motion for the second reading—on the subject of this Bill. He fully admitted the gravity of the step which he was about to take. The Council was called upon suddenly to suspend the privilege which had now been enjoyed a quarter of a century by the population of this country—a privilege to which all Englishmen are attached. Having heard the statement of his Lordship to-day, he thought it right emphatically to declare that he was ready to take his share of responsibility involved in the adoption of the measure (Hear, hear). The freedom of the Press was a privilege conceded only on the principle that it would conduce to the public good. That it did answer that end in ordinary times, he fully believed; and there was no privilege against the arbitrary abrogation of which he would more earnestly contend. But it was obvious from the statement made by his Lordship to the Council that owing to circumstances

unhappily within the knowledge of us all, we were now in no ordinary times. The Executive Government of this country, then,—those upon whom lay the burden of protecting the people ; a burden which so far as one not connected with them might offer an opinion on the point, they had faithfully borne (Hear, hear),—told the Council that effectually to meet the exigency of the times, it required the extraordinary powers conferred by this Act. It seemed to him that this Council would be taking upon themselves a far greater responsibility than they would in passing this Bill, if they should refuse those powers to the Government of the country in this momentous crisis. He, therefore, did believe that those who had hitherto enjoyed the privilege, whether European or Native—and he would make no distinction between Europeans and that body of Native who, he believed, was well affected towards the Government, and which included all who had anything to lose, or the wit and knowledge to see that no good rule could arise from a Government ordained by a faithless soldiery, would perceive that whatever the value of the freedom of the Press, they should as readily submit to the loss of that privilege as, he hoped, they would submit to any call upon their purse or person at a moment like this. At all events, he could say freely and readily that the powers which the Government asked for in this Bill were necessary. He greatly regretted the necessity for such powers ; but as he saw the necessity, he willingly consented to the remedy." The Bill passed through Committee with amendments, was read a third time and assented to by the Governor-General at once.

On the 25th June following, a brilliant article appeared in the *Friend of India*, then edited by Mr.

Henry Mead,\* on "The Centenary of Plassey." The Governor-General in Council took objection to the tone of the article and wrote thus to the Government of Bengal :—

No. 1202—From C. BEADON, Esq., Secretary to the Government of India, to the Secretary to the Government of Bengal.

Sir,—The attention of the Governor-General in Council has been given to the first leading article, headed "The Centenary of Plassey," which appeared in the *Friend of India* of the 25th instant and especially to the last two paragraphs, which, in the judgment of his Lordship in Council, are fraught with mischief and calculated at the present time to spread disaffection towards the British Government, both among its native subjects and among dependent and allied states.

\* Mr. Henry Mead was an erratic genius who used to say of himself that God made him an editor and the Devil made him a speculator. In the early part of his Indian career which began in 1846, he was editor of the *Madras Athenaeum* from which he was seduced in 1849 to take the command of the *Delhi Gazette*. At Delhi, Mead was not a success as an editor; he left the place in 1850 to engage in some unfortunate mercantile speculations in Burma. There the diabolical influence of the Devil became stronger, and Mr. Mead lost a fortune. Returning to Calcutta in 1856 he was placed in charge of the *Friend of India* by Mr. Meredith Townsend who went home this year. On the outbreak of the Mutiny he wrote a brilliant article which has now a place in the history of the Mutiny—"The Centenary of Plassey"—in the *Friend of India* and brought down upon the paper the angry wrath of the Governor-General in Council which forced Mead to resign the editorial chair in order to save the *Friend* from suspension. Losing his post, he hastily put forward a book on the "The Sepoy Revolt" and got it published by Mr. John Murray in London, which, however, did not prove successful. In December 1857, he returned to England for some rest and came back to Ceylon in 1860. There Mr. Mead's latest effort of speculative genius took place. It consisted in a method of solidifying castor oil for export, so as, by diminishing the bulk of the ordinary cask stowage, to secure reduced freight. So far he was successful, but it was discovered, when the solidified castor oil got to England, that the cost of liquefying again came to double what the ordinary freight would have cost. Hence the speculation failed. In January 1862 Mr. Mead came over to Calcutta and assumed command of the *Bengal Hurkaru*. In Calcutta, too, he was ever going to make his fortune, in some clever speculation; but alas! fortune did not come except at last in the cruel form of a sudden and terrible death by drowning in the Hooghly. The story of the accident by which Mead and others were drowned in the river Hooghly is as follows: On Saturday, the 6th September, 1862, the Agent of the Oriental Inland Steam Navigation Company invited a party to a private trial trip on the new steamer the *Ganges*. Mr. Mead who was then editor of the *Bengal Hurkaru*, as stated already, and several others took to an unsafe boat and were engulfed in the river. The sole survivor of the party was Mr. John Blessington Roberts, the well-known Calcutta Presidency Magistrate. Mead was buried in the Lower Circular Road Cemetery, and a subscription was opened for his widow, which reached nearly Rs. 22,000. Both the Viceroy, Lord Elgin, and the Lord Bishop of Calcutta, Bishop Cotton, subscribed to the fund. Mead was a Free Mason, a brilliant writer, a genial humorist, a sparkling conversationalist and an amusing and fascinating companion. He was one of the few Anglo-Indian editors who had learnt to eschew personalities and observe professional etiquette.

2. The article in question infringes every one of the three conditions upon which licenses to keep a printing press are now to be granted. It tends to excite disaffection towards the British Government amongst great masses of the people ; it tends to create alarm and suspicion among the Hindoo and Mahomedan population of intended interference by Government with their religion ; and it tends to weaken the friendship towards the Government, of native princes, chiefs, and states in dependence upon, and alliance with it.

3. Whatever the intentions of the writer may have been, the tendency of the article is above described, and the publication of such remarks, even if innocent and admissible in ordinary times, is now, under the critical circumstances which rendered the passing of Act No. XV of 1857 necessary, most dangerous, not only to the Government, but to the lives of all Europeans in the provinces not living under the close protection of British bayonets.

4. I am directed, therefore, to request that, with the permission of the Lieutenant-Governor, the views of the Government of India may be communicated to the publisher of the *Friend of India*, and that he may be warned that the repetition of remarks of this dangerous nature will be followed by the withdrawal of his license.

5. The Governor-General in Council has no intention of interfering with the fair discussion of public measures, but he cannot now permit the circulation in India of writings so framed as to excite popular disaffection.

I have, etc.,

C. BEADON,

COUNCIL CHAMBER, } *Secretary to the Government of India.*  
29th June, 1857. }

The Secretary to the Government of Bengal communicated the above order to the publisher of the *Friend of India* thus :—

No. 298—From the Secretary to the Government of Bengal,

to J. C. MURRAY,\* Esq., Printer and Publisher of the *Friend of India*.

Sir,—I am directed to forward for your information the accompanying copy of a letter No. 1202, dated the 29th June, 1857, from the Secretary to the Government of India in the Home Department, relative to an article which appeared in your paper of the 25th instant.

I have, etc.,

A. R. YOUNG,

FORT WILLIAM, }  
29th June, 1857. }

Secretary to the Government of Bengal.

On the receipt of the above, Mr. Henry Mead wrote another insolent article in the *Friend of India* of the 2nd July, called "THE FIRST WARNING," and on the 3rd July the Governor-General in Council was about to direct the revocation of the license of the paper when Mr. Macleod Wylie assured the Governor-General on behalf of the absent proprietor, Mr. Meredith Townsend,†

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\* Mr. James Murray came out to India in 1843 as an assistant to Messrs. Colvin, Cowie and Company, Bankers and Agents. In 1856 he became the Agent, Printer and Publisher of the *Friend of India* at Serampur. In 1860, he joined Messrs. Kettlewell, Bullen and Company. He was four times elected President of the Bengal Chamber of Commerce. He died on the 13th April, 1891.

† Mr. Meredith Townsend was born in 1831. For some time he was educated at Ipswich Grammar School where the late Professor C. B. Cowell was his class-fellow. In 1848, he came to Serampur from England more for education than for work. He was Mrs. J. C. Marshman's cousin, and was trained by her husband to succeed him as editor of the *Friend of India*. As a boy, Mr. Townsend was not remarkable as a student; in fact, he was more fond of flying kites than of reading books. One day, out of annoyance, J. C. Marshman scolded him so severely that the boy remained an invalid for six months during which he contracted his habit of reading, and when he recovered, Marshman found him a scholar in Bengali. In April 1850, Marshman revived his old vernacular weekly, *Samachar Durpan* which was discontinued in 1841, under new name *Satya Pradip*, and Townsend was made its editor. Besides, he was entrusted with the writing of the "Week" of the *Friend of India* containing a summary of weekly news, as sub-editor of the paper. *Satya Pradip* was a short lived concern. In December 1852, J. C. Marshman retired from India, giving the editorship of the *Friend of India* to Mr. Townsend. In 1856 he became the sole proprietor of the *Friend of India*. In this year Mr. Townsend submitted to Mr. (afterwards knighted) Cecil Beadon, Secretary to the Government of India in the Home Department, a plan for publishing an indexed epitome of the principal Reports annually issued by the Supreme and Provincial Governments and of some of the Indian Blue-books laid before Parliament. Lord Dalhousie accepted the plan and allowed an annual grant of Rs. 8,000 to Mr. Townsend. The first part of *The Annals of Indian Administration* as the publication was called, appeared in 1856. In 132 pages the editor analysed just 2 500 pages of Reports. Soon afterwards he published a

that the *Friend of India* would be carried on so as to avoid all cause of complaint on the part of the Government and within the terms of the license. The following note was also submitted by Mr. Cecil Beadon, the Secretary to the Government of India.

With reference to the article which appeared in the *Friend of India* on Thursday last, headed "THE FIRST WARNING," the Secretary begs to submit a demi-official letter he has received from Mr. Macleod Wylie, on behalf of the absent proprietor, explaining that measures have been taken to prevent the insertion of further objectionable matter.

(Sd.) CECIL BEADON,  
Secretary to the Government of India.

3rd July, 1857

On the receipt of this assurance, the Government of India communicated thus with the Government of Bengal :—

Home Department—From C. BEADON, Esq., Secretary to the Government of India, to A. R. YOUNG, Esq., Secretary to the Government of Bengal.

Sir,—In consequence of the article which appeared in the *Friend of India* of the 2nd instant, headed "THE FIRST WARNING," the Governor-General in Council would have felt it necessary to direct the revocation of the license which has been granted to the publisher of that paper. His Lordship in Council only abstains from adopting this course in consequence of an assurance he has received on the part of the representa-

Thesaurus or general index to all the published Records of Government previous to 1856. Lord Canning, then Governor-General, expressed approval of the work which continued to appear in quarterly parts. In the beginning of 1857, Mr. Townsend left Serampur for a short while leaving the *Friend of India* and the other periodical with Mr. J. C. Murray as his Printer and Agent, and Mr. Henry Mead as editor. What took place in his absence we have seen above. In 1858 Mr. Townsend returned from England and resumed charge of both the publications. But as ill-health continued to harass him, he could not remain long at Serampur as editor of the *Friend of India* and *The Annals*. In March 1860, he left India for good, making over the entire charge of the periodicals to Dr. George Smith who was then acting as co-editor of these papers. In England Mr. Townsend soon became joint-editor and joint proprietor of the *London Spectator*. He is now living in retirement at home.

tives of the absent proprietor, that the newspaper shall, during his absence, be carried on so as to avoid all cause of complaint, and within the terms of the license.

2. The Governor-General in Council desires me to request that this may be communicated to the publisher

I have, etc.,

C. BEADON,

COUNCIL CHAMBER, } *Secretary to the Government of India.*  
3rd July. 1857.

Next the *Dacca News* was warned thus : -

No. 456—From the Secretary to the Government of Bengal, to the Magistrate of Dacca.

Sir,—The attention of the Lieutenant-Governor of Bengal has been given to an article in the *Dacca News* of the 1st instant, headed "THE TENURE OF LAND BY EUROPEANS IN INDIA," which, in his Honor's judgment, manifestly infringes the conditions on which the license to the publisher of that paper was granted. I am directed, therefore, to request that you will warn the publisher that a second infringement of these conditions on his part will compel the Lieutenant-Governor to withdraw his license.

I have, etc.,

A. R. YOUNG,

FORT WILLIAM, } *Secretary to the Government of Bengal.*  
7th August, 1857.

No. 393.

To A. FORBES,\* Esq.

Sir,—I have the honor to forward herewith a copy of a letter No. 456, dated the 7th instant, from the Secretary to the

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\* Mr Alexander Forbes came out to India in 1842 with Dwarkanath Tagore when he returned after his first visit to England. On his arrival at Calcutta, Mr. Forbes took up his abode at the house of Dwarkanath Tagore and resided there for about two years, when he got an appointment in a small factory in which Dwarkanath Tagore had a share. About this time he fell in with the Magistrate of Pabna, Mr. Abercrombie (afterwards judge of the Twenty-four Parganas) who greatly advanced him in life. He first got him employed as Superintendent of Alli Meah's Zemindari and afterwards Manager of Dr. Lamb's Zemindaries and factories at Dacca and Mymensingh. He next became Secretary to the Dacca Bank, and in 1850, founded the *Dacca News* and edited it for some time. About 1854 he returned to England where he rendered to his party a deal of service by his evidence before the Colonisation Committee. Before the outbreak of the Sepoy Revolt, he

Government of Bengal referring to an article published in the *Dacca News* of the 1st instant and headed "THE TENURE OF LAND BY EUROPEANS IN INDIA."

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| DACCA,<br>'Foujdary Adawlut,<br>Zilla of Dacca,<br>The 10th August, 1857. | } | I have, etc.,<br>C. F. CARNAC,<br><i>Officiating Magistrate.</i> |
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Then the license of the *Bengal Hurkaru*, the foremost daily paper of the day, was withdrawn. The following correspondence took place between the Government of India and the proprietor of the paper.

No. 1829—From C. BEADON, Esq., Secretary to the Government of India, to W. SIMS, Esq., Proprietor of the *Bengal Hurkaru*.

Sir,—The attention of the Right Honourable the Governor-General in Council having been given to a letter which appeared in the *Bengal Hurkaru* of the 5th instant headed, "Extreme Measures," and signed "Militaire," I am directed to state that the observations contained in that letter manifestly involve a breach of the conditions of your license, and to warn you that if any further observations or statements of a like nature be inserted in the paper the license will be withdrawn.

I have, etc.,

C. BEADON,

11th September, 1857. *Secretary to the Government of India.*

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came back to Dacca and assumed charge of the *Dacca News*. During the Mutiny—in August 1857—he indulged in some reflections on the "tenure of land held by Europeans in India" which were regarded by the Lieutenant-Governor of Bengal as infringement of the conditions of the license granted to the publisher of the paper under the Gagging Act, and was warned. In 1858, Forbes became editor of the *Bengal Hurkaru* and espoused most warmly the cause of the Indigo Planters of whose Association he soon became Secretary. Brett of the *Englishman* and Forbes of the *Bengal Hurkaru* played most prominent parts in the Indigo disturbances of 1860-61. In 1860, Forbes published *in extenso* the celebrated minute of Sir Charles Trevelyan, then Governor of Madras, against the Income Tax as proposed by James Wilson, the first Finance Member of the Viceroy's Council. It produced a violent revulsion of feeling not only in Calcutta but also in England. Trevelyan was recalled from the Governorship of Madras and took all the responsibility of the publication of his minute against the Income Tax in public prints on himself. Forbes was exonerated from all blame for publishing this confidential official document, and the clerks of the Finance Department who were suspended for having acted secretly with Forbes, by the Finance Member, were reinstated by Lord Canning. In 1861 when Walter Brett started the suit of defamation against the Rev. James Long, Alexander Forbes figured as the principal witness for the prosecution. In December 1862 Forbes died in Calcutta.

No. 1886—From C. BEADON, Esq., Secretary to the Government of India, to W. SIMS, Esq., Proprietor of the *Hurkaru* Press, No. 1, Hare Street.

SIR,—The Right Honourable the Governor-General in Council has perceived with regret that notwithstanding the warning conveyed to you in my letter No. 1829, dated the 11th instant, there have appeared in the *Bengal Hurkaru* newspaper of the 14th and 15th instant observations directly and obviously calculated to bring the Government into contempt, and to weaken its lawful authority and therefore opposed to the conditions of your license.

The observations in question are contained in an editorial article in the *Bengal Hurkaru* of the 14th instant, beginning with the words, "All India is eagerly watching the progress of public opinion at home," and in a letter under the signature of "Militaire" in the *Hurkaru* of the 15th instant, in which the objectionable expressions which led to the warning are repeated.

After this the Governor-General in Council feels that he has no course left open to him, but to revoke your license; and the license is accordingly hereby revoked.

It is not the intention of the Government to put in force against you the provisions of Sections 2 and 5 of Act No. XV of 1857, unless after this date you use the *Hurkaru* Press, types, or other materials, or articles for printing or cause or allow them to be so used.

I have, etc.,

C. BEADON,

18th September, 1857. Secretary to the Government of India.

From W. SIMS, Esq., Proprietor of the *Hurkaru* Press, to C. BEADON, Esq., Secretary to the Government of India.

Sir,—I beg to acknowledge the receipt of your letter No. 1886 conveying to me the resolution of the Right Honourable the Governor-General in Council to withdraw my license, on account of the letter signed "Militaire," which appeared in the *Hurkaru* of the 14th, and an editorial commencing "All India," etc., which was published in the *Hurkaru* of the 15th instant.

I have to express my regret that any writing whether communicated or editorial should have appeared in the *Hurkaru* calculated in the judgment of the Governor-General in Council to bring the Government into contempt ; but I would beg you at the same time to represent to his Lordship in Council, that under my engagement with Mr. Blanchard, the editor of the *Hurkaru*, 'the internal economy and management of the paper is entrusted to him, and that neither the letter nor the editorial to which objection has been taken passed under my review before publication.

Mr. Blanchard has put into my hands the resignation of his office as editor, and I enclose his letter in original for submission to the Governor-General in Council, together with my assurance that if his Lordship in Council should so please, I am prepared to accept his resignation ; and that in any case I will take care that the paper shall be hereafter so conducted as to be entirely free from offence to the Government, and from all comments tending in any way to call in question its motives or to obstruct its measures.

I trust that, as in the case of the *Friend of India*, the Governor-General in Council may see fit to accept this assurance on my part, and to permit the renewal of the license, and the republication of the paper as soon as possible.

I have, etc.,

W SIMS,

NO. 1, HARE STREET, } *Proprietor of the Hurkaru Press.*  
18th September, 1857. }

P.S.—I shall feel obliged by your returning to me Mr. Blanchard's resignation.

No. 1957—From C. BEADON, Esq., Secretary to the Government of India to W. SIMS, Esq., Proprietor of the *Hurkaru Press*.

Sir,—Having laid your letter of the 18th instant before the Right Honourable the Governor-General in Council, I am directed to state, that the law having been vindicated, His Lordship in Council has been pleased to grant you another license, which is accordingly herewith forwarded ; you are requested to return the former license, which has been revoked.

2. In again granting<sup>d</sup> you a license, His Lordship in Council desires me to observe, that the responsibility for what is printed at any Press rests upon the proprietor of that Press and upon him alone. It is the intention of the Government to enforce the law, but it will not interfere with the proprietor's choice of an editor.

The enclosure of your letter is herewith returned.

I have, etc.,

C. BEADON,

23<sup>rd</sup> September, 1857. *Secretary to the Government of India.*

The *Bengal Hurkaru* remained suppressed for five days—from the 19th to the 24th September—and re-appeared on Monday, the 25th September. There were no further troubles with the Calcutta Press during the time the Mutiny was rife in the Upper Provinces.

On the restoration of peace in 1858 and the transfer of Government from the East India Company to the British Crown, the great financier, the Right Honourable James Wilson, came out to restore equilibrium to the shattered finances of the Indian Empire. He was greatly displeased with the strained relation between Government and the Press, and as he carried with him to the East a practical acquaintance with the literary accomplishments of an administration, it seemed to him, on his arrival in Calcutta, that an official organ was a necessity of Government's position in India. He, therefore, gave some *degré* of efficiency, for a time, to the two half-measures by which the Government of Lord Canning tried to make up for the absence of an acknowledged mouthpiece. One of these was the "Editor's Room," an apartment in which State papers of general interest were laid out for perusal by gentlemen connected with the Press. The other was the publication of such documents by means of the papers printed at the end

of the *Gazette*. Both of these plans were inadequate from the first, and both became useless, and worse than useless, when the strong will that had for a time overcome the traditional reticence of the Secretariats ceased to be felt. Editors gave up going to a room where they found nothing but departmental reports and tabular statements of merely local importance. At the end of the *Calcutta Gazette* only the returns of chinchona cultivation were printed for the delectation of journalists. Hence both the methods of James Wilson proved ultimately quite unsatisfactory.

In 1860 the Indian Penal Code, which was originally drafted by Lord Macaulay and his colleagues of the Indian Law Commission in 1837, was passed into Act XLV of 1860 by Sir Barnes Peacock, then Chief Justice of the Supreme Court of Calcutta, but in charge of the Indian Penal Code. At the suggestion of Lord Canning, then Viceroy of India, the Sedition Section of the Indian Penal Code, —Section 113 of the Penal Code of 1837 usually known as Lord Macaulay's Code, was altogether omitted from Act XLV of 1860, as the Viceroy thought that it was a direct attack on the liberty of the Indian Press. The Sedition Section of Lord Macaulay's Code of 1837 ran thus :—

113. Whoever, by words, either spoken or intended to be read, or by signs, or by visible representations, attempts to excite feelings of disaffection to the Government established by law in the territories of the East India Company, among any class of people who live under that Government, shall be punished with banishment for life or for any term from the territories of the East India Company, to which fine may be added, or with simple imprisonment for a term which may extend to three years, to which fine may be added, or with fine.

*Explanation.*—Such a disapprobation of the measures of the Government, as is compatible with a disposition to render obedience to the lawful authority of the Government, and to support the lawful authority of the Government against unlawful attempts to subvert or resist that authority, is not disaffection. Therefore the making of comments on the measures of the Government, with the intention of exciting only this species of disapprobation is not an offence within this clause.

In 1849 when the original Indian Penal Code of 1837, the first edition, came to be recast\* by the Honourable John Elliot Drinkwater Bethune, then Legislative Member of the Governor-General's Council, the Sedition Section 113 became two sections, 131 and 132 of the revised Code thus :—

131. Whoever, by words spoken, written or printed, maliciously counsels the resistance by force of any law or lawful authority, is liable to transportation or imprisonment for seven years, and in either case, also to fine.

132. Whoever by words spoken, written or printed, or by signs or drawings, maliciously stirs up or endeavours to stir up any person to disobey the Law, is liable to imprisonment for three years, or to banishment : and in either case, also to fine.

But the second edition of the Indian Penal Code as drawn up by the Honourable Mr. Bethune was not more successful than the first. In 1853 when the new Legislative Council was formed in virtue of the Charter Act of 1853, the codification of Indian Criminal Law again excited attention, and on the 20th May 1854† Lord Dalhousie stated that a letter had been received from the

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\* This was really done by the second Indian Law Commission which was revived by Lord Dalhousie in September 1848. The Hon'ble Messrs. Bethune and Millet of the Governor-General's Council of India were appointed Law Commissioners, and Mr. John Peter Grant (afterwards Lieutenant-Governor of Bengal) was its Secretary.

† In October 1854 Lord Macaulay writes to his sister, Lady C. R. Trevelyan : "I can not be pleased to find that, at last, the Code on which I bestowed the labour of two of the best years of my life has had justice done to it. Had this justice been done sixteen years ago, I should probably have given much more attention to legislation, and much less to literature than I have done. I do not know that I should have been either happier or more useful than I have been."

Court of Directors desiring to be informed of the progress made towards the completion of the Indian Penal Code. Hence the Penal Code as revised by the Honourable Mr. Bethune was submitted for opinion. Sir Lawrence Peel, then Chief Justice of the Calcutta Supreme Court, thus remarked on the two sections on Sedition, 131 and 132, as given by Mr. Bethune in the place of the original Section 113 of Macaulay's Code:—

“The proposed law as contained in these articles appears to me objectionable in not distinguishing between instigations to disobedience of the law in grave and in slight cases. In the latter the punishment is far too severe.

“If a man is liable to pay a sum of money under a decree of any Court and one advises him not to pay it, he instigates to disobedience of the law, and it would seem that in legal contemplation under this act, ‘he would have reason to believe’ that which it is inexcusable not to know, for *ignorantia legis non excusat*. But whether this be the intention may be doubted: assuming the meaning to have been that it must be a knowing instigation to the disobedience of the law, still such an indiscriminating mode of legislation seems highly objectionable, for instance, a liability to be banished for instigating a man not to obey a summons, but to keep away, would never be enacted by a Legislature dealing with that offence simply”

Referring to Clause 113, Mr. George Norton, Advocate-General at Madras, said:—

“As regards the object of defining the mode of slandering Government—‘as by words either spoken or intended to be read, or signs, etc.’ and of defining what shall constitute slandering, namely, ‘the exciting feelings of disaffection,’ as contrasted with the exciting

only feelings of such a 'disapprobation of measures of Government as is compatible with a disposition to render obedience and to support its lawful authority against unlawful attempts, etc.,' I conceive the composers of this Code are as unfortunate as all others have been in that effort. Words spoken and signs made and words written, with a view to sedition or of exciting disaffection, are of very different effect and criminality, and the vagueness in the definition of slander is such, that no two persons would probably agree in their sense of it. But the greatest objection appears to me to be the enormous severity with which the most trivial slander against Government by the most trivial sign of communication may be visited—extending as it may to banishment for life added to unlimited fine."

Mr. John Cochrane, Standing Counsel to the Calcutta Supreme Court, wrote thus on Section 113:—

"I think that as a mere matter of public policy, every Government should avoid punishing mere words unless such be accompanied by acts injurious to the interest of the State. But this clause does not only apply to words, but is in fact a direct attack on the public Press. The expression 'as is incompatible with a disposition to render obedience,' which is the qualification of the clause, appears to me of a very dangerous tendency and calculated to place men's rights and liberties in the discretion of each particular judge."

He was also opposed to the clause because of the severity of the punishment. Mr. W. Hudleston, Judge of the Sudder Court at Madras, thought the clause wholly indefensible. The following are the observations of the Law Commissioners:—

"The offence which the clause is intended to punish

is that of attempting to excite feelings of disaffection to the Government ; and to guard against too wide a construction of this term and to give free scope to that kind of temperate discussion and criticism of public measures which is conducive to the public good, an explanation is subjoined declaring that by disaffection is not meant 'such a disapprobation of the measures of Government as is compatible with a disposition to render obedience to the lawful authority of Government against unlawful attempts to subvert or resist that authority.' It seems to us that by this explanation, the discretion of the Judge is pretty well guided and limited, and that there is by no means so much danger of his transgressing the just line as Mr. Cochrane apprehends.

"As to the ways in which the attempt to excite disaffection may be made 'by words either spoken or intended to be read, or by signs, or by visible representations,' the terms expressing them are the same as are used in the definition of defamation, and we presume that the same reasons which determined the authors of the Code not to make a distinction between written and spoken defamation, determined them likewise not to make a distinction between seditious words spoken in order to excite disaffection in the hearers and seditious words written and intended to be read, the object being the same. These reasons are ably stated in the note to the chapter on 'Defamation.' As to sedition, there can be little question, we conceive, that the object of exciting feelings of disaffection to the Government may be effected more easily, more suddenly, and, therefore, more dangerously, by an inflammatory declamation on a popular topic, addressed to a multitude by a skilful orator, than by the circulation of written or printed papers. Mere vague words spoken at random ought

*not indeed to be brought within this clause ; but as in the Digest of the English Criminal Law Commissioners it is laid down that words spoken shall not be deemed to constitute an overt act of any treason, unless they be words of advice, direction, or persuasion, tending to effectuate some traitorous act or design, so here must be understood significant words of advice, direction, or persuasion, tending to excite the people to whom they are addressed to a degree of disaffection incompatible with a disposition to render obedience, to the lawful authority of the Government, etc., and spoken under circumstances indicating a design to cause such excitement, or under circumstances from which the speaker must have known it to be likely that the words spoken by him would cause such excitement."*

It seems that by the Common Law of England, "generally speaking any words, etc., tending to vilify or disgrace the King, or to lessen him in the esteem of his subjects" "even in common and unadvised discourse," "amount to a misprision punishable by fine and corporal punishment," as well as by imprisonment, and by special statutes persons advisedly speaking against the constitution on certain points; are liable to punishment by forfeiture of lands and goods, and imprisonment "at the King's pleasure, or as other authorities have it during life," which the Criminal Law Commissioners propose to change into imprisonment for a term not exceeding three years (the maximum term of imprisonment specified in the clause under consideration as the alternative for banishment) and fine at discretion.

By Article 5, Section 3, Chapter II of the Digest of the English Criminal Law Commissioners, "public speaking" is specified together with "the exhibiting of flags, inscriptions," etc., as means of "exciting in the

minds of the subjects of the realm hatred or contempt of the person of Her Majesty, or of Her Government, or of the Constitution of the United Kingdom," etc. "The exhibiting of flags" is a mode of using "signs or visible representation" within the scope of the definition in clause 113.

With regard to Mr Cochrane's objection that the provisions of this clause, (touching "words intended to be read," we presume) are an attack upon the public Press, we have only to observe that the objection appears to apply equally to the Law of England by which the "composing, printing, or publishing" a seditious libel tending to bring into contempt the person of Her Majesty or Her Government, etc., is a penal offence. "Publications, tending to degrade and vilify the constitution, to promote insurrection, and circulate discontent through its members, would," says Russel, "without doubt be considered as seditious and criminal." Such publications only, under the explanation subjoined to clause 113, would, we conceive, be liable to punishment by the provisions thereof.

In England in cases of this nature the first offence, it appears, is punishable at Common Law. For a second offence the punishment is by statute, the same as in cases of high misdemeanors, that is, we apprehend, by fine and imprisonment at the discretion of the Court. Formerly the offender might be sentenced to banishment for such term of years as the Court should award, but this part of the law has been repealed. The punishment proposed by the English Criminal Law Commissioners in their Digest, is imprisonment for a term not exceeding three years.

Before we conclude our remarks upon this chapter, we wish to advert again to the suggestion made by the

framers of the Code as to the expediency of the interposition of the Imperial Legislature to pass a law of High Treason for the territories of the East India Company. We conceive that offences of a treasonable nature committed against the Government of India, must in contemplation of law be considered as offences against the Crown. And we have consequently very grave doubts whether the Council of India is not excluded from all legislative power on the subject, by that part of the 43rd section of the Charter Act, which provides that they shall not "in any way repeal, vary, suspend, or affect," "any part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland, whereon may depend in any degree, the allegiance of any person to the Crown of the United Kingdom, or the Sovereignty or Dominion of the said Crown over any part of the said territories."

On the Chapter of Punishment, they, among other things, remark :—"We have remarked that there are only three clauses (113, 114 and 290) in which banishment from the territories of the East India Company is authorised as the primary punishment of offences. In commenting upon clause 113 we reserved our opinion upon the propriety of the punishment of banishment for the offence of 'attempting to excite feelings of disaffection to the Government' therein defined, until we should have maturely considered the chapter of punishments. We have now to submit our opinion that it would be an unwarrantable severity to inflict the punishment of banishment for life upon a native of the territories of the East India Company constantly domiciled there from birth, for the offence in question. Probably the extreme penalty of banishment for life was not intended to be applied to persons of this description, but to

temporary inhabitants. It might perhaps be sometimes politically expedient to banish a temporary inhabitant, convicted of attempting to excite disaffection to Government, for life. But we do not think it consistent with the principles upon which the penal provisions of the Code have been constructed generally, to extend the punishment beyond the measure of the offence upon any such consideration. We think the punishment of banishment is a fit punishment for the offence, but we would recommend that the term be limited to five years, as the term of simple imprisonment, which may be inflicted in the alternative, is limited to three years."

In 1860 the whole of the Indian Legislative Council resolved itself into a Committee to consider the Indian Penal Code section by section. Sir Barnes Peacock, who was in charge of the Code, proposed the following amendment of Section 113, but the Select Committee did not consider it an improvement on the original draft of the Law Commissioners :—

"Whoever attempts to excite or to induce, or does anything which he knows to be likely to excite or to induce, the people or any class or portion of the people, who live under the Government of India, to entertain such feelings of disaffection to that Government or to any Government in India, as are likely to induce or cause them to resist or disobey the lawful authority of the Government of India, or of such other Government, or to abet such resistance or disobedience, or by reason of such disaffection to break the peace or to violate the law, or to abet any such breach of the peace or violation of the law, shall be punished, etc."

Hence the Sedition Section of the Indian Penal Code did not at first appear in it when it became Act XLV of 1860. Both Lord Canning and the Select

Committee appointed to consider the Penal Code in 1860, disapproved of the Section 113 altogether.

Lord Elgin, the successor of Lord Canning, did not interfere in the least with the connection the Government had then with the Indian Press. But in Lord Lawrence's time, the proposal of establishing a *Moniteur* to expound the views and actions of Government again cropped up vigorously in the following way. Sir Mortimer Durand, in the Life of his father, Sir Henry Marion Durand, thus writes :—

“One of the first matters that occupied his attention in 1866 was a proposal which had at this time received considerable support at headquarters for the establishment of a Government paper after the model of the French *Moniteur*. The conclusion of the Bhootan War, without an advance upon the capital, and the terms granted to our assailants, were unpopular; and Sir John Lawrence, always extremely sensitive to press criticism, had of late been subjected to some very unfair attacks on the part of the Indian newspapers. Under these circumstances it had occurred to him that the establishment of a *Moniteur* to expound the views and actions of Government would be desirable; and the idea had been taken up by the Commander-in-Chief, Sir William Mansfield, who wished to see either a single Government organ established at headquarters, or a number of minor *Moniteurs*, one at the seat of each local Government. To this proposal my father at once demurred, and his minute on the subject closed for a time the controversy in which at first he stood almost alone. After pointing out that a *Moniteur* would provoke opposition from the greater and more influential newspapers, and command no great confidence with the people of India, that the system would embitter and render

more unseemly the occasional conflicts between the supreme Government and the local administrations, and might be productive of grave embarrassment in England ; that a *Moniteur* might go with a mistaken majority, and be afterwards discredited by Blue Books and party discussion ; that the services would be exceedingly sensitive to every personal remark hazarded by such a paper, and would be constantly appealing to the law ; that the High Court and its counsel would thus, in fact, come to review, in public the executive proceedings of Government ; that our Press generally went right and gave Government a liberal support ; that when it went wrong this was generally under the guidance of an official clique, and that the *Moniteur* would be under such a clique, finally, it was a bad time to introduce such a system, when Government was supposed to be wincing under the diatribes of a hostile Press." My father summed up his argument as follows:—"Every thing considered, it is wiser to trust to the soundness of the measures of Government and to the honesty of its intentions, to secure a fair, though it may be an intermittent, support from the free Press, than under the frail shield of an Indian *Moniteur* to hold out a perpetual challenge, and foster a permanent antagonism. Such an authoritative newspaper, if dull, proper and commonplace, would be the mark for ridicule and obloquy ; if racy, bold and censorious, it would be fiercely assailed in every way ; under either supposition the end would probably be a collapse more damaging to the position of Government than can result from the occasional hostility of the local press at present."

A long discussion followed upon the minute of Sir Henry Marion Durand, and in the end it was settled that there should be no Government organ. The

proposal, therefore, fell to the ground in 1866\*. In 1867 Act No. XI of 1835, Metcalfe's Act for the liberation of the Indian Press, was repealed by Act No. XXV of 1867—an Act for the Regulation of Printing-presses and Newspapers, for the Preservation of copies of books printed in British India, and for the Registration of such books. In Part II of this Act which provides for the Printing-presses and Newspapers, all the sections of Act No. XI of 1835 have been incorporated without any alteration. Act XXV of 1867 received the assent of the Governor-General in Council on the 22nd March 1867. This Act is still in force.

In 1868 the question of a Government organ cropped up again in the following way. Sir Bartle Frere, then a Member of the Council of the Secretary of State for India, asked Mr. W. W. Hunter (afterwards knighted) to submit a scheme for an Indian official paper like the French *Moniteur*, which he was to show to the Secretary of State and then send on to the

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\* The late Mr. Robert Knight, editor of the *Statesman*, thus told how the scheme fell through in 1866: "It was during the Viceroyalty of Sir John Lawrence that the Government of India, after a good deal of discussion, decided upon having an official organ. With this view, a 'Star Chamber' Committee was assembled to devise a plan by which the objects of the Government could be best attained; or to use more accurate terms, a number of gentlemen were 'invited to meet and discuss a certain project which would be laid before them.' The gentlemen composing this Committee, to the best of our recollection, were Mr. R. Temple, Mr. J. Strachey, the Hon'ble Ashley Eden, Mr. Healey, and one gentleman of the Press. That gentleman was, not, however, the youngest member of the Fourth Estate. He was the Nestor of Indian journalists—Mr. John O'Brien Saunders of the Calcutta *Englishman*. At the first meeting of the Committee, all went merrily as a marriage bell, indeed, so merrily that everything was thought to be satisfactorily arranged, and the 'Organ' *a fait accompli*. Things having progressed thus far at the second, or it may have been the third, meeting of the Committee, the gentleman of the Press, after producing a variety of statistics setting forth the cost of bringing out the proposed journal, politely enquired what 'subsidy' the Government proposed to contribute as a compensation to the proprietor for the loss of his independence. The question was listened to by the official gentlemen present with profound attention, but at the same time with blank astonishment. The answer to it, however, was clear and decisive: 'The Government of India had never, for one moment, contemplated the idea of giving any subsidy whatever!' Upon hearing this, the Nestor of Indian journalists rose from the chair, and with a bow, which has since become historical, gracefully retired from the 'Star Chamber' leaving the official members of the Committee gazing with wonder and amazement at the empty chair which he had just vacated."

Viceroy, Lord Lawrence. Most probably Sir Bartle Frere made this request to Mr. Hunter at the suggestion of the Viceroy. The fruit of this request was the following letter written by Hunter to Frere :—

TO SIR BARTLE FRERE.

21st May 1868.

You have asked me to put on paper the information I collected last year regarding the organisation and working of Government journals in Europe. In England, where Government is conducted by parties, each has its own organ to announce its policy and defend its action. The only thing approaching a governmental mouth-piece here is *The Times*, and it partakes of that character only in as much as its editor is able to gather information from the principal actors on both sides of the House. It is this circumstance that gives much weight to the first leader in *The Times* during a political crisis. The rest of Europe is ruled by highly centralised bodies, and each has its representatives among the Press. Everywhere the responsible and visible unit of Government has, and must have, a means of interpreting itself to the people. In India, as on the Continent, that unit is the central governing body, but it is, at present, destitute of any machinery for explaining its policy, defending its action and correcting misconception. Moreover, even in India there exist the rudiments of that Government by parties which Englishmen carry with them wherever they go. Not only, therefore, is the Indian Administration unrepresented as a Government, but it is also unrepresented as a party in the State. The native interest has its organs, the Anglo-Indian interest has its organs, the Government has none. Indian rulers, in fact,

labour under two sets of disadvantages, those which the French Government would experience without a *Moniteur*, and those which an English Ministry would experience without the organs of the party to which it owes its devotion.

The Indian Government has endeavoured to remedy this defect by various devices. I shall afterwards have occasion to advert to the plan adopted during the years preceding the Mutiny; at present I will briefly enumerate the methods I have seen in operation since India passed directly under the Crown. Mr. James Wilson carried with him to the East a practical acquaintance with the literary requirements of an administration. It seemed to him that an official organ was a necessity of our position in India, and he gets the credit for having given for a time, some degree of efficiency to the two-half-measures by which the Government tries to make up for the absence of an acknowledged mouth-piece. One of these was the "Editor's Room" an apartment, in which state papers of general interest were laid out for perusal by gentlemen connected with the Press. The other was the publication of such documents still effected after a fashion, by means of the papers printed at the end of the *Gazette*. Both of these plans were inadequate from the first, and both became useless and worse than useless, when the strong will that had for a time, overcome the traditional reticence of the Secretariats ceased to be felt. Editors gave up going to a room where they found nothing but departmental reports and tabular statements of merely local importance. Judging from the samples which used to appear at the end of the *Calcutta Gazette*, one would suppose that the most interesting, if not the only State papers known to the Bengal Government were the

returns of chinchona cultivation. It is difficult to conceive how either of these methods could be made to work satisfactorily. The peculiar disadvantage attaching to them is that when Government, with the means of interpreting itself, says nothing, journalists conclude that it has nothing to say.

A third method has been to countenance, or at least, not to discourage the connection of Government servants with the Press. My own experience of this mode, and I have been engaged more or less permanently as a leader-writer upon several Indian publications, leads me to believe that, while pleasant and profitable to junior civilians, it is utterly useless as a means of interpreting policy. No Government could trust its motives to unrecognised and irresponsible writers, and very few seniors would deign to make use of such channels for reaching the public. While, therefore, the practice tends to introduce temperance in discussion and friendly relations between the public services and the Press, the articles are generally written in haste and with a half knowledge of the facts.

A fourth method is to permit Government servants to send letters to the daily papers. During the last few years this practice has obtained an alarming frequency, for the necessity of finding some authoritative means of expression, has been making itself more strongly felt. Secretaries and minor officials of every class have put themselves at the mercy of editors, for, however forcibly a newspaper correspondent may write, the editor has power to reply, and to reply not merely once, but again and again, after the impression created by the correspondent's arguments has passed off, by damaging sneers and indirect allusions, by changing the point at issue, and with all a leader writer's artillery of fresh premises.

unverified statistics, unshifted evidence, quotations without references, a show of public spirit and the royal and editorial pronoun "We."

A fifth method remains. It consists in furnishing information such as telegrams, public news, and occasional State papers to the Press. The same causes which render the first two plans ineffectual, deprive this of any practical utility as a means of interpretation, and to these causes are added other sources of embarrassment peculiar to itself. In point of fact, it stimulates without satisfying a journalistic appetite of a very inconvenient kind. The more important periodicals in India have machinery of their own for obtaining State papers, machinery which tends to demoralise those who set it in motion and to make traitors of the poor tools by means of whom it is worked. It is not long since a whole Secretariat was threatened with dismissal in consequence of the publication of a document, which I have reason to believe, reached the editor through a channel quite different from the office on which the blow would have fallen, and the ease with which whole sets of papers, conspicuously those connected with the railway, could be obtained, is a standing joke with Calcutta journalists. I cannot make use of information communicated in confidence, but I can positively assert that as long as it pays the Indian Press surreptitiously to get possession of State papers, the Indian Press will obtain them. It is no exaggeration to aver that all the efforts of the Indian Government to explain itself have less effect upon the Indian public, whether native or English, than the petty larcenies of clerks and compositors, the misrepresentations that are pieced together from an Under-Secretary's waste-paper basket, and the sweepings of the Public Offices.

After describing the different methods adopted by

the Continental Governments in influencing the public Press, Hunter proceeded to apply the mass of information acquired by him to the problem in India. He urged that the Government of India should found a weekly official journal, furnishing literary matter and intelligence of the highest order—"its writing well considered, authoritative, somewhat reticent, but at the same time bright and attractive; its information fresh and trustworthy. The first requisite of an official organ is complete dependence on the Government. This can be secured by appointing one of the Secretaries as editor, if such a man can be found who possesses the necessary qualifications and will accept the work as his staple employment in life. The Indian authorities have had some experience of what happens when a journal possessing a quasi-official character breaks away. During the decade before the Mutiny of 1857, a certain periodical was supposed to occupy this position, and public rumour still speaks of its editor's interviews with high officials. But divergence of interests arose in course of time, and the temporary connection only served to widen the breach. The second requisite is that the character of such an organ should be plainly avowed. All Governments which do not stand on a popular basis, make use of mouth-pieces in the Press. That the Indian Government should do so is but an acknowledgment of the growing power of the fourth estate and of the non-official public. The third requisite is that its literary organisation should be of a first-class journal. Every requirement may be met without invoking any startling novelty, but by means of existing machinery offered by the official Gazettes."

The Secretary of State, Sir Stafford Northcote, got the above letter of Hunter from Sir Bartle Frere

in July 1868, and sent a copy to Sir John Lawrence, then Viceroy of India. In the meantime, Sir Henry Sumner Maine, then Legislative Member of the Viceroy's Council, proposed that the weekly *Friend of India* should be transferred to the Government and that its editor, Dr. George Smith, should continue as editor of the *Moniteur*. The following correspondence took place between Sir Henry S. Maine and Dr. Smith.

CALCUTTA, 16th March, 1868.

MY DEAR MR. SMITH,—You will, no doubt, recollect the conversation which I had with you at Simla in the autumn of 1866 on the subject of possible future relations between the Government and the *Friend of India*. As you did not renew our conversation, I inferred that you did not think anything could be done in the direction indicated, and I should not now recur to the subject if new facts and circumstances were not presenting themselves.

I regard it now as all but certain that the Government of India will, before long, establish direct relations with the Indian Press. It is no longer a question of feeling ; it is now one of power. We are beginning more and more to be conscious of the reflex action of Indian opinion, which is mainly formed by the newspapers, which penetrates to England in a variety of ways, which thus leavens or creates English opinion about India, and so becomes a real power with which we have to count. Even more serious is the direct influence of the European press in India on the now enormous Native press. Where the native newspapers do not perceive that native interest points the other way (which they constantly fail to do), they merely echo European cries, which, in the vast majority of cases,

are liker calumnies on, or misrepresentations of, the policy of the Government.

It is unnecessary to describe to you the condition of the European Press in Bengal and Upper India one newspaper, two at most, being excepted. We always knew that it was careless, shallow and scandalous. We now know all but for certain that it is corrupt. It is not very uncharitable to speak of it as constantly subsidised by one or other of the numerous persons who are conspiring against the Indian Exchequer.

It would be very unjust not to make an express exception of the *Friend of India*. It is much abler than its contemporaries, and has a very much higher sense of its duty. But, to speak frankly, I do not think it cares to sacrifice or jeopardise its circulation by supporting the Government in a measure, which, for the moment, is decidedly unpopular; and it is only justice to its proprietary that it should be reluctant to do so. Yet, that the Government does require support, even in that contingency, is plain, and that it is entitled to have it, is an inference from the fact that opinion in India constantly veers right round to the Government side after a month or two of clamour, though not soon enough to undo or prevent the collateral mischief which is caused by the temporary discredit of the Government.

You know that I have always doubted the expediency of founding a wholly new organ of Government. Yet if a less extreme measure is not practicable, I believe that a new organ will be founded.

I must ask you, therefore, to reconsider the subject of our Simla conversation (*i.e.*, regarding the transfer of the *Friend of India* to the Government), and to mention it to any whom it may concern, of course in strict

confidence. You will, doubtless, be careful to recollect the assurances and explanations which I gave you at the time (for becoming editor of the Government *Moniteur*), and which made it clear to you, I think, that nothing was intended which implied disrespect on the part of the person making the proposal, or which would lead to dishonourable conduct on the part of the person to whom the proposal was made.

The English Government does not subsidise newspapers, because it is ordinarily the representative of a party which pays for their support by subscribing to them and taking them in. The Government of India, though constantly maintaining against attack, the interests of millions upon millions, has no such newspaper-buying party at its back ; on the other hand, the party opposed to it is getting to consist less and less of mere grumblers, or of persons who honestly entertain non-governmental theories. It is coming more and more to consist of persons who seek to obtain pecuniary advantages at the cost of other classes, or of the public Treasury. Under such circumstances, it seems to me equally right and natural that the Government of India should seek to create a real and essential, and not merely apparent and nominal, analogy between itself and the English Government.

Perhaps you will acknowledge the safe receipt of this, even if you defer your reply till you return (to India).

Very sincerely yours,

H. S. MAINE.

The proposal of Sir Henry S. Maine was necessarily submitted by Dr Smith. to the joint-proprietor

of the *Friend of India*, Mr. Meredith Townsend, of the *Spectator*. The result was the following reply :—

SERAMPUR, 4th December, 1868.

MY DEAR MR. MAINE,—You have asked my opinion on the subject of the propriety of the Government establishing a *Moniteur*, or of entering into such relations with an existing newspaper as would result in the same thing. The danger and uselessness to Government of *secretly* subsidising a newspaper are so evident as not to be worth discussion. Such a transaction would be dishonourable alike to Government and to the journal ; the fact could not be concealed in the long run ; the support of a paper pretending to be independent, but known to be paid, would not be worth having ; bitter opposition to Government would be created in the case of every other journal. Moreover, the experiment has been tried all over Europe and has failed everywhere. I will confine my remarks, therefore, to the question of an acknowledged official paper.

This question has cropped up several times, always to meet with the same fate after discussion. Mr Marshman tells me that he was consulted on the subject in Lord Auckland's time. It was that Governor-General's opinion, as well as that of Messrs. Mangles and Halliday, that the project was inadmissible. Lord Auckland remarked that it would be more prudent to give any journal disposed to deal fairly with the Government, the information which was necessary to keep it in the right path. With a knowledge of the history of the journal which I have edited now for ten years, and of journalism and the position of Government in India generally, I would adopt that opinion. In addition to such a relation, honourable to both, Government ought further to act

on a suggestion made, or reiterated, by yourself in the Bengal Blue-book--that whenever the Governor-General may see fit, questions on Executive subjects may be put in the Legislative Council. If this were done, and if a better use were made of the official Supplement to the *Gazette*, by publishing more official papers and occasional narratives of events and summaries of reasons for the policy of Government, every object at which a *Moniteur* is supposed to aim, would be secured without creating greater dangers to Government.

I use the word 'danger' advisedly. Whose policy is the *Moniteur* to express or defend? The Government of India, in its widest sense, consists of the Secretary of State in Council, the Governor-General in Council, and Lieutenant-Governors without Councils. Especially since the Mysore Grant, published Blue-books and the proceedings in the Legislatures show that each of these bodies is occasionally, or in some cases frequently, not only in collision with the others, but at variance within itself. It is not for the public good that there should be no such difference of opinion. As a rule, we in India believe that, in disputed questions, the Governor-General is right and the Secretary of State wrong, and it seems to me to be one of the highest duties of the Governor-General to resist up to a certain point that encroachment of the Secretary of State on his Excellency's function which Sir John Lawrence lately deprecated. The Governor-General does not always agree with his own Executive Council. Still less does the Government of India agree with Governments which behaved so scandalously as that of Bombay used to do during the mania\*, and that of Madras did before Sir

\* The Bombay Share Mania when many local financiers became stark lunatics over the huge profits in cotton caused by the American Civil War. The mania collapsed.

C. Trevelyan was recalled. So with the Lieutenant-Governors. Take Bengal in the tea question, where the whole local community thought it in the right. Take the Punjab in the land question. Take the North-West in the days of Sir G. Edmonstone and Lord Canning. If the Government of India is to have a *Moniteur*, it can hardly prevent the local Governments from establishing similar organs, or if it does, the officials will fight more effectually in the ordinary papers. The same remark is true of the relation of the Government of India to the Secretary of State, and of the Governor General to the colleagues who may differ from His Excellency. It would be impossible to avoid scandals under a system the tendency of which is to create them, as well as to drag those which are inevitable, into the light of day for the public amusement or derision.

I need only hint at the effect of a *Moniteur* on the mass of officials. In a country and under a Government where so many questions are personal, or are bound up with the exercise of patronage, there must be frequent heart-burnings and many complications. Much better would it be to let the present state of things continue, under which all these find vent in a natural way, and to encourage officials to write much more than they do in support of those measures of which they approve. It is my experience that the severest and the most valuable critics of Government are frequently its own servants or members.

What would be the influence on the natives, even in a modified form? Where would be our prestige? In a crisis like that of 'Fifty-seven, a *Moniteur* would not do half so effectually that which was done by the English Press. In ordinary times, the utterances of a *Moniteur*

would be subject to suspicion and misunderstanding. Natives would search for hidden meanings where none existed, and draw deductions the opposite of those intended.

What would be the effect on the existing Press? All support of Government is valuable only in so far as it is honest and known by the people to be independent. Except in one or two cases—and even with them the tendency to be hostile would be irresistible—Government would not only in ordinary times but in days of difficulty, convert the whole Press into an "Opposition," ever on the watch for mistakes, and the best Government as well as the best editor in the world frequently makes mistakes. Nor is this only a question of newspapers. Government would alienate the whole independent opinion of the country, whether official or non-official, or cause it to suspect policies and acts which otherwise would seem both intelligible and satisfactory.

Nor is the difficulty only one as to what the *Moniteur* published. There are many subjects, and there are stages in the course of all subjects, of which it is true that public discussion would be premature. The silence of the *Moniteur* would, in such cases, ultimately be more misunderstood and misrepresented than its utterances.

Finally, there is a practical question. Where is Government to get an editor or editors? If it knew one tenth of the difficulty experienced by ordinary Indian Journals in this respect, it would hesitate. The *Moniteur* must be perfect in all its arrangements, if it is not to prove a weakness. An official editor, if he is to be worth anything, must have a conscience like his independent brother, and the changes among officials in ordinary cases, no less than in the policies of successive Administrations and Governor-Generals, are only too frequent.

Let, me repeat my solution of the question which you proposed to me—such a relation between Government and a Journal as Lord Auckland described, for the more delicate questions or for questions at a delicate stage ; such a change in the law as will empower the Governor-General to permit questions to be put in the Legislature on Executive subjects—this Mr. Wilson did frequently, I may remark ; and a very considerable improvement in the official supplement to the *Gazette*.

..

Yours very truly,

GEORGE SMITH.

Mr. W. W. Hunter's masterly plea for the creation of an official organ as well as Dr. Smith's masterly arguments against the same, were duly considered by Lord Lawrence and his Council, and Mr. Walter Scott Seton-Karr, still living at home in retirement, was sounded as to whether he would agree to fill the editorial chair of the Indian Government *Moniteur*. But Lord Lawrence's "masterly inactivity" led him to shelve the thorny subject.

S. C. SANIAL.

[ *To be continued* ]

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## Art. VI.—HISTORY AS CONCEIVED BY THE ANCIENT HINDU AND OTHER NATIONS.

BY YOGESA CHANDRA SASTRI-SAMKHYARATNA-VEDA-  
TIRTHA, M.A.S.B.,

*Professor of Sanskrit, Doveion College, Calcutta.*

**D**IFFERENCE in nationality carries with it a difference in the modes of literary composition of all kinds. Accordingly the method of writing history also differs with different nations. Illiterate aboriginal tribes commemorate the important events in their tribal life by composing a few ballads on them in default of their capacity for doing anything better. As a matter of fact, it is this sort of poetry which forms the foundation of history, properly so called, of every country. The ballads serve to keep the memory of these events always fresh in the popular mind ; and the ideals of statesmanship, heroism, sobriety, ingenuity and other virtues which a careful study of these events is calculated to present to the reader comes to be largely instrumental in educating men. These historical ballads grow maturer as a nation advances and the genius of the nation finds a vivid expression in them. The following illustration will make this statement clearer.

Almost all the Tatar or Turanian races have histories of their own. These works are mere records of isolated events in their chronological order. They do not appear to suggest even in the faintest manner that there can be any deeper connection between successive historical events than that of mere sequence. The truth is that the order of succession in time is but an apparent index of the relation of cause and effect.

The Tatars are not fitted with a particularly fine sense for the perception of causal relation nor do they possess the requisite imaginative faculty in the same degree as they are endowed with an imitative faculty and artistic efficiency. The historical works of the Chinese, the most advanced of the Turanian races, are written in the following lines :—" During the reign of Emperor so and so, on such and such a day, in such and such a month, of such and such a year, there occurred a rebellion in such and such a province, or a flood in such and such a river, or a solar or lunar eclipse." This kind of history is but a sort of calendar, it might go by the name of calendar-history in accordance with the famous saying of Lord Plunkett who remarked that " History is an old almanac." Even in those districts of India that were inhabited or overrun by the Tatars, for instance Assam, Nepal and Cashmere, they used to write histories of this nature. The Sanskrit work " Rajatarangini " which hails from Cashmere might be taken to have been compiled from some work of this description. Even in the historical works of Mahomedan authors that are written in Arabic the means of ascertaining the causal connection of events is nothing other than the mere circumstance that their places are assigned in chronological order. In fact, no trace of causal connection is discernible in such narrations of events. Mahomedan authors regarded it as improper to attribute events to any cause other than the direct will of one God manifested in all things. Such and such commander could not take such and such a town although he was so great a hero, while another less intelligent person endowed with a milder disposition easily succeeded in accomplishing the task ! And why ? If such a question ever occurred to an Arabian author he would solve it in a word and say

*"It was the will of God."*\* The Arabs are essentially a religious nation unanimous in every affair and their historical works make this abundantly clear.

There is some similarity between the Jews and the Arabs. Both are descended from the Semitic stock. Both are earnest believers in One God. Both are devotedly attached to their respective faiths and both admit the immediate presence and direct interference of God in all worldly concerns. This characteristic was, in later times, borrowed by the Puritans in English history, who, as Macaulay has finely described, "not content with acknowledging, in general terms, an overruling Providence, habitually ascribed every event to the will of the Great Being, for whose power nothing was too vast, for whose inspection nothing was too minute." They differ in this that the Arab who has embraced Islam has learnt from it that there is heaven or hell after death, while the Jew knows no such thing. So, if a virtuous man meets with misery, worry and failure, the Arab is in a position to say that it is all due to the power of Satan and that after death, God willing, the welfare of this man will be secure. The Jew, however, has not this course open to him. If a Jewish author has to depict a virtuous man coming to grief and being oppressed by wicked men, he has to resort to a peculiar contrivance and say that the apparently virtuous man was vicious at heart.

A Jew is regarded as vicious if he happens to have little or no dread of or reverence for his tutelary deity, Jehovah. The Jew seldom makes mention of any other vice. With this trait as the trademark of virtue the

بِقَدَرِ اللَّهِ\*

\* Bi qadari 'llah.

Jew has built up his history upon the single principle that "Where there is virtue there is victory." The history of the Jew is thus a mirror of his national character.

The adage "Where there is virtue there is victory" constitutes also the fundamental principle of the history of the Hindus, but the method in which it is worked out is different. In their perception of the causal connection of events Hindu authors are more skilful than other nations of the world. They realise fully that the circumstance of a certain event immediately preceding another is only a superficial index of a causal connection between them, and that a surer way of establishing such a relation between them is by showing that the one could have been brought about by the other and by no other event.\* In fact they penetrate deeper into this connection, and having traced all causes to an ultimate one, come to be convinced of the omnipresent and eternal nature of providential power. Therefore, with them the doctrine "Where there is virtue there is victory" is a combination of two component parts. One of them is *Praktana* or an assemblage of those causes visible and invisible coming down from a previous state of existence, while the other is *Purushakara* or the employment of the accessories of physical and intellectual powers backed by virtue in the present life. These are otherwise named *previous pursuit* and present exertion respectively. So virtue with those features which the Hindus recognise cannot accrue otherwise than by a combination of these elements and without

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\* सम्यग्वासिद्धिभूयस्य नियता पूर्ववर्तिता ।

कारणत्वं भवेत्तस्य . . . . . ॥

भाषापरिच्छेदः ॥

virtue there can be no victory (*i.e.*, success in life).\* It is in such a religious basis that Hindu history known as the Puranas has been built up. According to some recent Indian and foreign scholars the contents of the Puranas are only allegorical accounts of material objects or of the sun, moon, stars, planets and so forth or of spiritual conceptions—they are not real historical facts.† But the interpretation of these scholars is, I venture to think, not sound. Even the cause of the ascription of a distinct vitality and of the human ways to the objects and forces of nature is to be sought in nothing save and except historical facts. Real men and women, objects and events are established and rendered attractive by poets by means of figures of speech, such as similes, metaphors, hyperboles and so forth, and thus it is that poetic histories come into being.

Are we then to conclude that everything said by those who interpret the Puranas allegorically is unreasonable? By no means. The foundation is indeed in real facts, but in course of time men come to forget many details connected with them and poets ultimately commit them to writing after having coloured them with their personal ideas.

\* देवे प्रथमकारेण कार्यसिद्धिर्भवेदित् ।

तत्र देवमभिचक्षत् पौरुषं पौर्वदेहिकम् ॥

पौर्वदेहिकं पौरुषं देवं, अभिचक्षत् वर्तमान चेष्टादिकं  
प्रथमकारः ॥

रघुनन्दनः

अपिच ।—

अथोऽस्तु पाण्डुपुत्राणां येषां यः जनार्दनः ।

यतः कृष्ण स्ततो धर्म्मो यतो धर्म्म स्ततो

Professor Max Muller, Mr. R. C. Dutt, C.S., C.I.E., and others.

Again the conceptions borrowed from natural phenomena are very powerful in a poet's mind, especially in the mind of a Hindu poet. It is for this reason that the associations of natural phenomena are invariably present in the poetic histories of Hindus. In this connection we should bear in mind the truth that all earthly objects and events are so constituted that all of them (in the aggregate) are present in each one of them (individually). So whichever event offers itself to the poet, the idea which is uppermost in his mind is likely to be mixed up with the facts in its treatment. It is a mistake to regard the Puranas as poetry based only on fiction. They are poetry no doubt, but historical poetry. We shall cite only a single illustration of this. It is related in the Puranas\* that God during His incarnation

\* Vide :—

वामन पुराणम् ३१, ७५ अः ।

पद्मपुराणम् (उत्तरखण्डम्) ४८, ४९ अः ।

श्रीमद्भागवतम् and अग्निपुराणम् ।

विष्णु नारायणः हृष्णो वैकुण्ठो विष्टरश्वाः ।

पद्मनाभो मधुरिपुर्वांसुदेवश्चिविक्रमः ॥

वनमाली वलिध्वंसी कंसाराति रधोज्ज्वलः ॥

करोपहारयोः पुंसि वलिः प्रत्यङ्गजे क्षियाम् ॥

विकलाङ्गस्त्वपोगण्डः खर्वो ह्रस्वश्च वामनः ॥

इत्यमरः ॥

वलिस्तु वलिनि काके दैत्यमेदे हृष्यायुधे ॥

इति हेमः ॥

“इदं विष्णुविचक्रमे” इत्यत्र विष्णुरादित्य इति-निबन्धे

दुर्गाचार्यः ॥

as Vamana (a dwarf) sent the Asura king Bali down to the nether regions. If we went to *Sâdrâs*, a place near Madras, we might see that the palace of king Bali is now lying under the sea. *Vamana* is equivalent to *Trivikrama*, which again means the sun-god. *Bali* denotes "offering in a worship." This is a physical truth; God is as a dwarf before the offerings in His worship, or else the act of worship cannot be exalted. It is a spiritual truth. The allegory consists in the expression of these two truths. That the once flourishing Mahabalipuram is to-day in the nether regions, that is to say, at the bottom of the sea is, however, a historical fact \*

Among the Hindus, the composition of poetic histories did not come to an end with the Buddhistic age; but they appear to have become somewhat looser in structure. The mode of composition, however, has all along been the same. The framework of the Ramayanam and the Mahabharatam does not differ from that of the Brihatkatha!

The belief in the three states of existence, namely, merit earned in a previous life, exertion in the living present and a life to come is equally prominent in all. It might be so that several of the Puranas and Upa-Puranas were written even under the Mahomedan rule. But in those times the range of Sanskrit composition had contracted a great deal and Hindi and other current dialects had gained in strength. Even the best poetic history in Hindi, the one written by Charf Kabi †, is entirely characterised by features peculiar to the Puranas. Since the date of this work no other work of any

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\* *N.B.*—A picture of the ruins of the Mahabalipuram can be seen in the rooms of the Asiatic Society of Bengal.

† Prithvee Raja Rasau.

considerable size possessing similar traits has been composed. The one or two works that have acquired currency in more provinces than one are poetic works dealing with topics of the ancient times, there being no stamp of history upon them. But in the Deccan even after the Mahomedan *régime* one or two poetic histories have been written.\* During the British rule such works are no longer composed either in Sanskrit or in any other current language. The only works of this kind that are now written are either translations of English works or similar works cast in the English mould.

By history the Western nations understand that of the Greeks or of their imitators, the Romans. They do not so regard the work of the Jews as outside this category, since it has found a place among their holy works. In the work of the Jews there is no mention of dates. The Greeks and the Romans were remarkably patriotic. Love of country was their principal creed. It is by means of this thread that they have made all the wreathes of their national history. In this they had only one object in view, *viz*, to trumpet forth the stories of their land and their nation. We give here two illustrations of this. On the field of Marathon, says the Greek author, a Greek army numbering ten thousand defeated a Persian army more than one hundred thousand strong. Reading this in our boyish days, we were struck with awe at the greatness of the Greeks, and were even told that the cause of this was that the Greeks were capable of such a miraculous feat for the simple reason that they lived under a democratic form of Government. When,

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\* (a) Two Sivaji Charits. One by Kabibhushana, containing 1,000 slokas, and the other by Parushottama Pundita.

(b) Narapati Vijoya written in Tanjour. There are some others but not so important.

however, we had grown older, we endeavoured to see what account the Persians had given of this event in the history they had written. But no mention of Marathon or other wonderful battles of the kind could be found in it.\* Again the Greek author describes the character of Lycurgus, the Spartan legislator. What a wonderful character! Is it possible for a mortal to be so good-natured, to have such a firm determination? We persuaded ourselves to believe that the Greeks must have been really godly in their nature. Subsequently we came to learn that the German historians have by their researches proved that there is no certainty about any person of the name of Lycurgus having ever lived in Sparta.† Thus it is a very difficult affair to ascertain the truth or the contrary with respect to the matters related in Greek and Roman histories. We are beset with doubts on all sides. Nevertheless, we should bear one thing in mind, namely, that just as in the various works of Greek art the predominating feature is a human one, and ideas of nature occupy in them a place, so is the case with their history. Even unreal things are described in such a manner that they are made to appear like real truths. They lose their ultra-human character by being painted in their natural colours.

Modern historical works of the European nations are an outcome of the imitation of the Greeks and Romans. This is why mutual discrepancies among

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\* In the words of Edgar Sanderson, Esq., M.A., of Cambridge, "Greeks were unscrupulous and very fond of power...they were often cruel, and had little regard for truth when any end was to be served by its violation." For this reason, it was not impossible for them to give a false account of the battle of Marathon, &c. — *Author*.

† *Vide*: (a) Dunker (Max). *Geschichte des Altertums* Vol. V. p. 266 (Leipzig.) (b) Trieber (Conrad). *Forschungen zur Spartanischen Verfassungsgeschichte*. p. 44 (Berlin, 1871.) (c) Gilbert (G) *Handbuch der griechischen Staatserstimmer*. Vol. I. p. 15 (Leipzig, 1881) (d) Gilbert (G) *Studien zur Altspartanischen geschichte*. p. 88. (e) Gelzer. *Neuer Rheinisches Museum*. Vol. XXVIII. p. 1.

them are so few. Almost all the \*historical productions of Modern Europe are of the same type. And they are always cautious with regard to one another's statements. This accounts for the delineation of unreal matters being comparatively absent from them. But in spite of this the historical works of the Russians, the Germans, the English and other nations of Europe are not written exactly on the same lines. The inquisitiveness of the Germans, the ingenuity of the French and the \*practical instinct of the English are to some extent conspicuous in the respective works of these nations, just as the chronological accuracy of the Chinese, the godliness of the Arabs, the worldliness of the Jews, the reasoning aptitude of the Hindus, and the patriotism of the Greeks stand out as the distinguishing features of these nations.

In fact the poetry, history, and philosophy of all nations betray their peculiar national characteristics. It would be wrong to urge that because no other religion recognises the intrinsic distinction between the recipients of spiritual instructions and because no other society recognises the caste distinction, therefore Hindus have no religion, nor society. In like manner it would be unreasonable to assert that the Hindus have no history because their historical works are not written on the lines of those of the Europeans. Hence the statement that the lack of history argues the want of a national character cannot be applicable to the Hindus. They have a history entirely conformable to their national character, although there is no mention of dates.

By history, in fact, the ancient Hindus conceived treatises instructive of religion, politics, of the emancipation of the self and the statements of events of bygone times, the process of primary and secondary creation, of

the period of a Manu; and lastly of the description of several important dynasties and principal events relating to them.\* The aforesaid criteria are adequately existing in the Ramayanam, Mahabharatam, and the Puranas, which may be called the Historical treatises of the Hindu Nation.

\* “सर्गश्च प्रति सर्गश्च वंशो मन्वन्तराणि च ।

वंश्यानुचरितश्चैव पुराणं पञ्चलक्षणम् ॥

धर्मार्थकाममोक्षाणामपदेशसमन्वितम् ।

पूर्ववृत्तकथायुक्तमितिहासं प्रचक्षते” ॥

इति ब्रह्मवेवत्ते

श्रीकृष्ण जन्म खण्डे ॥

## Art. VII.—LAW AS A STUDY AND A PROFESSION.

**A**T the annual Convocation of the Calcutta University, the Vice-Chancellor for the year, while handing his diploma to the graduate, charges him "to be in his life and conversation worthy of the title he holds." The frequency of countless repetitions has robbed these words of that freshness and force which they would otherwise have, and has reduced them to a soulless formula of University ritualism. They embody a principle, however, which should form the corner-stone on which his subsequent life ought to be built up. His life-work should, in the first place, be commensurate with the education he has received and the hall-mark of it which he bears. The venerable myth of the choice of Hercules symbolises in more ways than one, the selection which a young man is called upon to make at this time of life. It is not merely a choice between the path of duty and that of pleasure, between Aormuzd and Ahriman, between God and Satan, between the accumulated forces of good and those of evil in the world. That election, one would think, is easily made. The difficulty there lies not in the choice but in acting up to it. A far greater difficulty confronts the young man when he is called upon to make a selection of a career for himself. At the threshold of the great university of the world, he is required to make a selection of the college in which he is to prosecute his further studies. In making this selection he will, of course, be chiefly influenced by considerations of wealth and worldly advantages. Wealth with its attendant retinue of the comforts and conveniences of life, with its concomitant array of pomp and splendour, is likely

to dazzle young eyes and captivate young minds. But he should always remember that a long purse and a big rentroll are not the *summum bonum* of human existence. The worth of a man depends on what he is and what he does and not on what he has. It is not given to every one to illuminate his own age and all subsequent ages by the corruscations of his genius; it is not given to everyone to write his name in letters of gold upon the annals of his country :

“ Th’ applause of list’ning senates to command,  
The threats of pain and ruin to despise,  
To scatter plenty o’er a smiling land,  
And read their hist’ry in a nation’s eyes.”

is not given to all. But it is open to all to make the world they live in, better, happier and wiser than they found it, to howsoever small an extent it may be. There is a paramount obligation on young men, therefore, in making the selection of the sphere of their future usefulness, to take into account along with considerations of worldly advantages, what particular business affords the greatest opportunities of adding to the stock of human happiness, or of contributing to the progress of the totality of mankind. But the circumstances which will most weigh with him in arriving at his decision, will be the greater or less chance of success which a particular walk of life promises to its followers. When, as now, the struggle for existence is so hard, when “ every gate is thronged with suitors, all the markets overflow,” the fact which will outweigh all others in determining his choice will be the degree of competition that he will have to meet with and the greater or less prospect of success that he may expect in any given branch of industry. It often strikes one as singular that since the foundation of the Calcutta University, very few, if any,

of its *alumni* have entered the fields of productive labour. They have, as a rule, held back from this walk of life as forbidden ground, and very few, if any, of the graduates are merchants or manufacturers. The occupation of a gentleman farmer is unknown in India. It is greatly to be regretted that the intelligence and culture of the country should not be devoted to the development of its resources, that there should be a perpetual divorce between its best thought and that department of human activity which is most conducive to the material well-being of man. One might be the most successful lawyer, the ablest physician, or the cleverest publicist, but he would not add one pound of grain or money to the capital of the country. The general impression which is responsible for this wholesale eschewing by our university men of productive labour is that high education either positively disqualifies its recipients for this kind of industry or at least is no fitting preparation for it. Some such idea seems to be at the root of the bifurcation of studies lately prescribed for the upper classes of our schools. But this impression seems to us to be erroneous. A man with a grounding of university education would be better fitted for any work, whatever its nature, than one without it. The objective utility of a literary or scientific education may not be apparent in many cases, but its subjective usefulness is almost self-evident. The candidates for service, Government and private, in all its various branches, have long outstripped its requirements, at a rate out of all proportion to them. General Literature and the Periodical Press present in many civilised countries a hopeful sphere of usefulness to not a few of the rising generation : but India has arrived at that critical epoch in the course of its history, when, as in England in the days of Johnson,

private encouragement has ceased, but public patronage of letters has not yet commenced. The learned professions have been so crammed with men that they no longer offer any prospect of an honourable livelihood for the needy crowd swarming into them. Even from the point of view of narrow selfishness, our educated youths should betake themselves to fields of productive labours, where intelligent competition is the least and success the most assured—where in benefiting themselves they would confer the greatest amount of benefit on their country.

As a matter of fact, the profession that attracts and has always attracted the greatest number of followers from among our graduates is Law. The want of a suitable career for a young man in the independent practice of his profession of Medicine or Engineering outside the limits of the metropolitan area, the comparative paucity of appointments in these departments of Government service and consequently the greater restrictions with which the entry into them has been wisely hedged in, the absence of the higher class of educational institutions in those subjects beyond a few of the provincial capitals, the fascination of the glamour of the unprecedented success of a few in the legal line, the entrance it affords to one of the most honorable services under Government open to the Indians, the traditional importance which attaches to it in England and with which our Western culture has also invested it in this country, the fact that the work required in it is always sufficiently intellectual not to seem distasteful drudgery, and the initial bent of the Indian mind for speculative, literary as opposed to practical pursuits, which require the use of the eye and the hand to promote the comforts and minimise the evils of this life, have combined to produce the partiality for

it betrayed by our young men. Those who have had any occasion to visit the Bar Libraries attached to our courts must have been struck by the wanton waste of juvenile energy that daily takes place in those veritable Castles of Indolence. The forensic literature of England, is indebted in numerous instances to the labours of briefless juniors for those splendid monuments of industry which embalm the accumulated wisdom of generations of judges. But no signs of such an activity to any appreciable extent are observable in the youthful members of our Bar.

Law and Mammon are the fetishes of Western civilisation, and in England the former has been, from time immemorial, an object of unquestioning faith to the vast majority of its people. The traditional reverence with which its practice has been environed in that country, is one of the instances of idol-worship, not unfrequent even among enlightened nations. The classification of Bacon would place this popular craze among one of his *idolas*. The homage that the popular mind always pays to received opinions without an inquiry into or examination of their truth or correctness, and the prejudice in their favour which gathers round them in course of time, find no more fitting illustration than in the conventional superiority attributed to this profession, over the cultivation of those Arts and Sciences which have done so much to promote the welfare and happiness of man and to bring about their moral, material and intellectual regeneration. The man of whom his contemporary poet wrote :—

“ Superior beings, when of late they saw  
“ A mortal man unfold all Nature's Law  
“ Admired such wisdom in an earthly shape  
“ And shew'd a Newton as we show an ape.”

was deemed sufficiently honoured with a baronetcy while a long line of judges, both before and after him, were raised to the peerage as Lord Chancellors, who in very elaborate and admirable decisions determined the title to property, which unfortunately for the successful litigant was in many cases, swallowed up by the costs for procuring those judgments. Jenner had his solatium in two ministerial grants, the bulk of which he had already expended in carrying on his investigations ; while the best paid law-offices of the Crown were the rewards of generations of successful lawyers, who, with the wonderful ingenuity and remarkable eloquence of Sergeant Buzfuz, could astonish a bewildered world by drawing out hidden meanings from such abstruse expressions as "*tomata sauce*" and "*warming pans*," by a process as subtle and intricate as that of extracting sunbeams out of cucumber. George Stevenson died unhonored and unsung : but turn to the bitter invective of Junius and the no less acrimonious attacks of other contemporary writers, and Lord Chancellor Mansfield, the petted and patted lawyer of the Georges, appear in no better light than that of a political turncoat, a courtly lawyer and a servile judge. James Watt and Hargreaves, Mill and Bentham, Tyndal and Huxley, Spencer and Darwin, have gone to their graves without any special recognition from their Government of their extraordinary talents or their inestimable services to humanity. It is only the enlightened reason of very recent times that has begun to break off from its old traditions, and Lord Kelvin and Lord Tennyson are among the few instances of this new departure. In England this pre-eminent superiority of Law to other professions will appear from a single incident which took place in

the reign of William IV. While the majority of the created lords are law-lords, it was proposed during that reign to confer the honor of peerage on a distinguished medical man. The orthodox sentiments of the country rebelled against this proposal and said that a man who could stretch out his hand for a guinea was not a fit person to be raised to the rank of a peer. The force of crystallised prejudice and narrow-minded philistinism could go no further than this.

This preponderating preference for Law in England is traceable to the circumstances of its past. The history of that country like the annals of the Roman Republic, is a record of the continual struggles—in one case of the people against the prerogatives of the sovereign, and in the other of the masses against the privileges of the classes. Law and Lawyers were therefore in great request in both the countries to circumscribe the sphere of authority and to define the rights and liberties of those who were affected by it. At Rome this growing importance of Law was further enhanced by the necessities of her situation when she found herself the mistress of Italy, and the insularities and the deficiencies of the *Jus Civile* intended for the Roman citizens, had in its application to the other Italian races, to be removed and supplied by the *Jus gentium* and the equity Jurisprudence founded on the Pretorian edicts. And it cannot be said that a similar development has not taken place in the English Law in its application to other countries.

If Law is the limitation imposed by society upon individual freedom for the promotion of the general good, then, indeed, it forms one of the main supports of the fabric of that society. Jurisprudence therefore, or the science and philosophy of Law, dealing with

its origin, sources and the progress of its evolution, forms one of the most interesting studies for the human mind, and should form a part of every system of liberal education. But having such a high regard for Law, one should not be blind to its defects. The imperfections of human language, the incompetence of human prevision however wise and far-reaching, to provide for all the possible contingencies that may arise in the complexities of human affairs, the administration of Law depending upon human agency, with its fashions and prejudices, its proclivities and idiosyncracies, shall always tend to deprive Law of the certitude and precision of Science, and to bring about the glorious uncertainty which shall always continue to be its chief characteristic. If Medicine has to contend with the eccentricities of nature, Law has to a great extent to deal with the caprice of man. Statutory Law may be the product of the confederate wisdom of the wisest of heads ; but it forms but an infinitesimal fraction of the total law of a country. By far the greater part of the Law with which a lawyer has to deal, is to be found in the reports of the decided cases. The remark which Austin made to Baron Parkes comes to one's mind in this connection. The learned Baron had observed to Austin in a spirit of boastfulness that it was something to have built up all the volumes of Meeson and Welsby's Reports. "Yes Baron," remarked Austin, "but would it have mattered anything to England, if all the cases in all the volumes of Meeson and Welsby had been decided the other way?" Many who are qualified to speak with some amount of authority on the subject, unhesitatingly declare that the progress of case-law has been, in many instances, in a circle. To escape from a possible charge of exaggeration by laymen, for we apprehend none from

lawyers, we shall support our position by some concrete instances, trying to make them comprehensible to the average reader. In the infancy of society, when men had not yet completely shaken off the habits of gregarious animals, they began to separate from their parents when maternal care was no longer necessary for their preservation or support. This was a natural corollary of a state of society in which were still found, lingering here and there, traces of promiscuity—a principle subversive of aggregation in families. In that remote past therefore, it was the individual and not the family which formed the unit of society. This theory receives a strong corroboration from some of the hymns of the Rigveda which speak of the son as leaving his paternal roof on taking a wife. With the advance of civilisation this condition of things did not long continue. In those early times, when the principle of division of labour was neither well understood nor followed beyond the limits of the domestic circle, men soon began to perceive the advantages of joint action and of a corporate existence, and the family came to be substituted for the individual as the atom in the composition of the social system. The Mitakhsara is supposed to have laid down the law for a society which regarded the families as the molecules of which it was built. Modern enlightenment, solicitous to furnish the highest incentive to individual industry and self-reliance and to stamp out the habits of slothful dependence, again began to treat single persons in preference to groups, as the constituents of society, the agents of civilised intercourse and the centres of jural relations. Whether the course of evolution will lead us to another important turn of the wheel and merge the individual back again into the corporate existence not of the family but of society itself, is a

problem for the socialism of the future to solve. What we are concerned with at present is that if Hindu Law had been left to work out its own development without foreign interference, probably the same reform which was introduced in Bengal by the genius of *Jimutabahana*, who brought the law in that province abreast of the circumstances and the sentiments of the age in which he lived and freed the individual from the collective existence of the family, would have been by this time, or in the near future, universal in other parts of India.

When by the dispensation of an All-wise Providence the subsequent growth of Hindu Law was entrusted to its English administrators, one would have thought that they would follow in the wake of the Bengali Reformer and lead the further progress of Hindu Jurisprudence on the lines indicated by him, especially when these were in consonance with the ideas and institutions of European countries. Adopting, however, as the guiding principles of their decision, in cases of alienations of joint ancestral property by the father, the two legal maxims of the *Mitakshara* that the son acquires a right in ancestral property from the moment of his birth, and that it is his pious duty to pay his father's debts if not incurred for an immoral purpose, they have rung so many changes on them, that amidst the variety of discordant notes that had been thus raised all sense of harmony is irretrievably lost. Starting from their judgment in *Girdharee Lal vs. Kantoo Lal* (22 W. R., p. 56) and *Muddon Thakur vs. Kantoo Lal* (22 W. R., p. 56) they have completed the circle and come to the same point again in *Bhagwat Sahai vs. Girja Koer* (I. L. R., 15 Cal., p. 71) after an erratic course of wanderings, more eccentric than those of the comets themselves. In the sea-saw of the

intermediate judicial decisions, both of the Privy Council and of the Courts in India, the lawyer looks in vain for any single principle which has been enunciated in one and followed in the next. For their judgment in the case of *Nanomi Babuasin vs. Muddon Mohan* reported at p. 21, I. L. R., 13 Cal., their Lordship of the Privy Council themselves admit :—

“It is impossible to say that the decisions on this subject are on all points in harmony, either in India or here.”

And the diversities in the manifestation of judicial wisdom on this subject, have been characterised in the euphemistic language of Justice Pontifex “as the fluctuating developments of Mitakshara Law.” But it may be said by the apologists of case-law that these alternating variations are due to the primitive rudeness of the early institutions, domestic and social, of the Hindus. In making our next selection, therefore, we shall take an example of Judge-made law, based upon a very simple provision of one of the enactments of the Bengal legislature. To ensure the registration of the names of zemindars in the Collector's Register, section 78 of Act VII. of 1876 (B C.) enacts that

“No person shall be bound to pay rent to any person claiming such rent as proprietor or manager of an estate or revenue-free property in respect of which he is required by this Act to cause his name to be registered, or as mortgagee, unless the name of such claimant shall have been registered under this Act.”

“And no person being liable to pay rent to two or more such proprietors, managers or mortgagees holding in common tenancy, shall be bound to pay to any one such proprietor, manager or mortgagee, more than the amount which bears the same proportion

to the whole of such fent, as the extent of the interest in respect of which such proprietor, manager or mortgagee is registered bears to the entire estate or revenue-free property."

This section resolves itself into two parts :—

(1.) That no tenant is bound to pay rent to a person whose name is not registered ; and

(2.) That no person is entitled to recover a greater proportion of the rent than that corresponding to his registered share.

These simple provisions one would have thought, would hardly present any difficulty or afford much room for difference of opinion. But a corollary from the first of these propositions which often comes, for solution before our Courts, *viz.*, whether a person was entitled to sue for rent without having his name registered before the suit was brought, has presented such a curious spectacle of conflict of authority that one is reminded of the familiar lines

" 'Tis with our judgments as our watches ; none  
Go just alike, yet each believes his own."

Beginning with cases reported in I. L. R., 16 Cal., pp. 706 and 708, it finds its culmination in the discordant judgments of the Full Bench reported in I. L. R., 23 Cal., p. 87, where the divergence has grown so pointed that one learned judge goes to the length of indulging in the judicial amenity of stigmatising a case decided by two brother judges as "wrongly decided." Though the question has been practically settled by the judgment of the majority of the judges of the Full Bench, so far as the High Court is concerned, the arena of the forensic controversy seems to have been transferred to subordinate courts, where its continuance even after that decision is evidenced by the cases reported in I. L. R.,

26 Cal., p. 712; I. L. R., 27 Cal.,\* p. 178; I. C. W. N., p. 712. Another rider which follows from the same proposition arises in a case where part of the rent sued for accrued during the life of the last deceased registered proprietor and part of it fell due during the time of the unregistered successor. In this case some judges have held that no suit brought by the unregistered successor would lie for such arrears,\* while others have been of a diametrically opposite opinion.†

As to the second question, the peculiar facts of the cases reported in 8 C. W. N., pp. 193 and 196, may be taken as a justification on grounds of equity for the decision arrived at in them. But that it is at variance with the express words of the section and the plain meaning thereof cannot for a moment be doubted or denied. It remains to be seen, however, how far subsequent rulings will adopt and affirm this view. It is also a point for consideration, it may be observed in passing, whether it is desirable to seek the help of a forced and unnatural construction to provide for circumstances which were not within the contemplation of the legislature when the law was passed: or to boldly recognise the omission and to supply it by an addition to or amendment of the existing statute. The inactive life of slothful self-indulgence led by the Bengal zemindars and the dishonest cupidity of the ryot attempting to avail himself of every loophole to escape the payment of his just dues, may, like the primitive Hindu institutions in the case of the Mitakshara Law, and with no better reasons, be held answerable for this conflict of judicial opinions, in the matter of the registration of names.

But what would the defenders of judge-made law

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\* I. L. R., 16 Cal., p. 708.

† I. L. R., 23 Cal., p. 87.

say to the differences in judicial conclusions, under the same or very similar circumstances, from the same law of mortgage which is based upon and is substantially identical with the English law on the subject. Here, at any rate, Indian character or institutions cannot be made the scape-goat for 'occasional singularities' and individual bias. To substantiate our position we need not enter into a detailed examination of rulings, for it is enough to quote the observations, from the preface to the third edition of the Lectures on the Law of Mortgage of Dr. Rash Behary Ghose, one of the greatest authorities in India on this subject, whose treatise furnished to Mr. Whitley Stokes as the ground-work of his draft of the Fourth Chapter of his Transfer of Property Act:—

"I speak within compass when I say that there is scarcely a single section in the Chapter on Mortgages in the Transfer of Property Act on which conflicting rulings cannot be found, many of which, doomed to a not very distant oblivion, the lawyer would willingly let die for the propensity to variation is hardly the principle of progress in the administration of justice." What pleasure or profit the human mind is to derive from a pursuit of such legal puzzles and conundrums as presented by the judge-made law, we leave those who are in the habit of thinking for themselves to determine.

With regard to statutory enactment also it cannot be affirmed that they have always been the fruits of wisdom. The Conventicle Act, the Five Miles Act of the reign of Charles II., and the Stamp Act and Towns-end Act of that of George III. and some of the Indian Factory Acts, and recent legislative measures, are cases in point. Taking all these into account it is well worth consideration whether such a subject should form the lifelong study and pursuit of an intelligent

and cultured mind. But those who have already cast the die should bear in mind that the profession of law means a lifelong studentship and that considerable patience is required to carry one through its earliest struggles. A distinguished Lord Chancellor was asked by a friend his opinion as to the advisability of sending that gentleman's son to the legal profession. "If your son," said the Lord, "is at sawdust without butter, send him to the profession." The lesson which should be imparted to the heir of the young aspirant after the law has been summarised in the epigrammatic verse of another legal luminary: "you must live like a cat and work like a horse."

It may be urged that a diffusion of legal knowledge is desirable to guard against the encroachments of authority on the legal rights of the people, and that a vigilant bar and a watchful public are the jealous guardians of such rights. This may be true in a country with a free Government, but it has no application to our circumstanced India, where law is simply the expression of the will of an autocrat or a tyranny of autocrats and where the law may be changed any moment to bring it into conformity with such will, whenever an invasion of the popular rights is pointed out. The Validating Act passed to legalise an illegality in connection with the University Act is a recent example of the kind. Doubts were widely felt as to the correctness of the construction sought to be placed upon section 124A, or the sedition section of the Penal Code in the *Bangabasi* case and in that which resulted in the conviction of Mr. Bal Gangadhar Tilak. To leave no room for such doubts in future, the section was amended to bring it into harmony with the interpretation put upon it by the late Mr. Justice Strachey in the latter

case, and to narrow the scope of the defence in future trials for sedition. Thus even that perfect piece of legislation—The Indian Penal Code—drafted by Lord Macaulay, and having the imprimatur of the Indian Law Commissioners, though comparatively free from the tinkering of subsequent legislators, did not escape the coercive amendment adverted to above. It may be pointed out, however, that though Section 124-A. was introduced into the Indian Penal Code for the first time by Sir James Stephen in 1870, it was but the reproduction of a similar section drafted by Macaulay which, however, did not find a place in the Code, as it was originally passed.

The Land Acquisition Act (I of 1894) invests with legal forms the forcible appropriation of private property and sanctifies it with the sanction of law. A government officer fixes the price of the land to be acquired; an appeal from his award lies by way of reference to another officer who holds his office at the pleasure of the same government and depends on it for his promotion and prospects. This poor consolation moreover, is denied to many as the right of appeal is surrounded with the terror of the risk of payment of costs to government, even in the event of partial success. How different the law was before it was changed, to make more easy and effective the assertion of an arbitrary will! Under the old Act (X of 1870), the Judge who heard the case on reference from the award of the Collector used to be assisted by two assessors—one of them being nominated by the Crown and the other by the proprietor. The costs of the private party had to be paid by Government if the amount awarded by the Collector was increased by so much as a pice. But it is needless to multiply instances.

Alterations in the enactments of the legislature have generally been made with a view to strengthen the hands of Government or its officers as against the privileges of the subject. The course of legislation in this country has been one of retrogression so far as popular rights are concerned. If any further proof was needed, we have only to refer to the Criminal Procedure Code to bear us out in these observations. The power of reference from the verdict of a Jury in case of its disagreement with the opinion of the Judge, the right of appeal from a Judgment of acquittal, are some of the peculiarities of the present law unknown to the criminal Jurisprudence of England and to the Indian Code of 1861. We purposely abstain from a reference to the coercive enactments of these days as they might be excluded from the category of sober-minded legislation on the ground of being the outcome of a period of unprecedented unrest and excitement.

As to the subjective utility of this field of activity, so far as it affects the individual, the acuteness of intellect, the quickness of mental vision, the faculty of ratiocination, the gift of suggestion, the power of memory, the habit of readiness, may justly be claimed to be developed and improved in it: but we look to it in vain for imparting that breadth of imagination which could see in the falling apple the motions of the planetary system or in the commonplace circumstances of to-day the grand possibilities of the future. And though it must be conceded that it gives one an insight into the peculiarities of human character it unfortunately familiarises him with the darkest side of it. The worst passions and propensities of man find an outlet in our Courts and the constant contact with these make us lose our instinctive loathing for them.

As to the moral aspects of the profession generally, ethical science would be a sublime illusion if one can retain his high regard for truth and at the same time daily become the channel, as observed by Counsellor Pleydell, of conveying the double-distilled lies of his clients and their attorneys (or mukhteers) to the bench. This growing indifference to veracity is practically evinced by the anxiety betrayed by the advocate in the course of cross-examination for getting the answer most favourable to his cause, and cross-examination which is the most effective instrument for eliciting the truth, is often perverted from its legitimate purpose to become in the hands of the skilful counsel the means of supporting a particular view. But these are evils incident to the profession itself. There are others however of more gigantic proportions, which the competition of an over-crowded Bar tends to bring into vogue. The abnormal increase of legal practitioners in this country is certain to lead to the demoralisation of the profession and symptoms have already begun to be manifest of its moral degeneration. Unchecked for any length of time this plethoric growth threatens to be an evil of no mean magnitude. It behoves the Government and the University to step in to prevent its further development, before it assumes serious proportions. The numerical strength of the annual influx of the B. L.'s does not require the reinforcement of the less ambitious aspirants for the honours of Themis. And the backdoor of the Pleaders Examination may, with advantage to the lawyers and to the laity alike, be closed to undergraduates who would not be the worse for a few more years of general education.

## **Art. VIII.—UNIVERSITY OF CALCUTTA.**

### **JUBILEE CONVOCATION.**

THE Jubilee Convocation of the University of Calcutta for conferring degrees was held in the Senate House, College Square, on 14<sup>th</sup> March. The hall was decorated with flags and foliage and the attendance was up to that of previous years. Of the fourteen recipients of Honorary Degrees, two were unavoidably absent, namely, Sir Subbaiyar Subramaniya Aiyar and Shams-ul-Ulama Syed Ali Bilgrami. As regards the graduates themselves no less than 860 came up to receive their various degrees. These comprised 97 M.A's, 427 B.A's, 9 B.Sc's, 244 B.L.'s, 1 M.D., 4 M.B's, 62 second L.M.S's, 11 B.E's, one Premchand Roychand student, two Sir J. M. Tagore medallists and two Ph.D's. There were three "girl graduates"—two from the Bethune College and one private student.

Shortly after 3 o'clock, a fanfare of trumpets announced the arrival of Lord Minto, Chancellor of the University. His Excellency was received with the usual honours and after he was robed a procession formed and entered the hall in the following order:—The Registrar, members of the Syndicate arranged two and two in order of Seniority; His Excellency the Chancellor, His Honour the Rector and the Hon'ble the Vice-Chancellor, ex-officio Fellows, arranged two and two in order of Seniority, Honorary Fellows arranged two and two in order of Seniority, Ordinary Fellows arranged two and two in order of Seniority. The Hon'ble Sir A. H. L. Fraser, Lieutenant-Governor of Bengal and Rector of the University, and the Hon'ble Sir Francis William Maclean, Kt., Chief Justice of Bengal, ex Vice-Chancellor, occupied seats on the dais to the right of the Chancellor and to the left of the Vice-Chancellor, respectively. The ex-officio Fellows, Sir Gooro Dass Bannerjee, Kt., ex Vice-Chancellor, the Hon'ble Babu Debaprasad Sarbadhikari, Representative of the University on the Legislative Council of His Honour the Lieutenant-Governor of Bengal, and the Deans of the Faculties occupied seats on the dais, while a seat was also reserved on the dais for the Hon'ble

Maharaja Sir Rameswar Singh Bahadur of Darbhanga, one of the Benefactors of the University. Members of the Syndicate and recipients of Honorary Degrees had the front seats on the platforms to the right and left of the dais, while Honorary Fellows and the remaining members of the Senate occupied seats on the platforms to the right and left of the dais in order of seniority.

The Vice-Chancellor then declared the Convocation opened.

Congratulatory addresses were next read by delegates representing the Universities of Madras, the Punjab and Allahabad, the address of the last named University being in Sanskrit. The Vice-Chancellor on behalf of the Senate thanked the delegates for the kindly messages of congratulation.

The Vice-Chancellor then presented the Hon'ble Sir Andrew Henderson Leith Fraser, Rector of the University and Lieutenant-Governor of Bengal, to His Excellency the Chancellor for the purpose of receiving the Honorary Degree of Doctor of Literature in the following form :—"May it please Your Excellency—I present to you Sir Andrew Henderson Leith Fraser, K.C.S.I., M.A., LL.D., who has been duly recommended by the Syndicate and the Senate of this University as a fit and proper person by reason of his eminent position and attainments to receive the Honorary Degree of Doctor of Literature, to which I pray that he may be admitted." His Excellency the Chancellor in delivering the diploma of the Honorary Degree of Doctor of Literature to Sir Andrew Henderson Leith Fraser said :—"By virtue of the authority vested in me as Chancellor of this University, I admit you Andrew Henderson Leith Fraser, to the Honorary Degree of Doctor of Literature." Sir Andrew Fraser then signed the Register of Honorary Degrees conferred by the University and resumed his seat.

The Rector of the University next presented to His Excellency the Chancellor the Hon'ble Mr. Justice Asutosh Mookerjee, Saraswati, for the purpose of receiving the Honorary Degree of Doctor of Science in the following form :—"May it please Your Excellency—I present to you the Hon'ble Mr. Justice Asutosh Mookerjee, Saraswati, M.A., D.L., F.R.A.S., F.R.S.E., who has been duly recommended by the Syndicate and the Senate of this University as a fit and proper person by reason

of his eminent position and attainments for the Honorary Degree of Doctor of Science, to which I pray that he may be admitted." His Excellency the Chancellor in delivering to the Hon'ble Dr. Asutosh Mookerjee the diploma of the Honorary Degree of Doctor of Science, said :—" By virtue of the authority vested in me as Chancellor of this University, I admit you, Asutosh Mookerjee, to the Honorary Degree of Doctor of Science." Dr. Asutosh Mookerjee then signed the Register of Honorary Degrees conferred by the University and resumed his seat.

The Vice-Chancellor then presented to His Excellency the Chancellor in the usual form, each of the undermentioned gentlemen for the purpose of receiving the Honorary Degree mentioned against his name:—Professor Arthur Schuster, Honorary Doctor of Science ; Dr. Ramkrishna Gopal Bhandarkar, Honorary Doctor of Philosophy ; the Hon'ble Mr. Justice Pratulchandra Chatterjee, Honorary Doctor of Law ; Sir Gooroo Dass Banerjee, Honorary Doctor of Philosophy ; the Rev. Father E. Lafont, Honorary Doctor of Science ; Sir Herbert Hope Risley, Honorary Doctor of Philosophy ; Surgeon-General G. Bomford, Honorary Doctor of Medicine ; Mr. Thomas Henry Holland, Honorary Doctor of Science ; Dr. Praphullachandra Ray, Honorary Doctor of Philosophy ; and Dr. G. Thibaut, Honorary Doctor of Science.

The Vice-Chancellor next granted the ordinary Degrees.

#### THE VICEROY'S ADDRESS.

His Excellency the Chancellor then addressed the Convocation. He said :—

Mr. Vice-Chancellor and Members of this Convocation,—

This is the third Convocation over which I have had the honour to preside since I succeeded to the office of Chancellor. But to-day's assemblage is exceptional in that this year the University has attained to its 50th anniversary, and I must congratulate you, Mr. Vice-Chancellor, and the University authorities and graduates on their first Jubilee.

It is a memorable day in the history of the University. I only wish that your Chancellor could have discovered a few leisure hours to better qualify himself to address the Convocation on this auspicious occasion, for the past 50 years have been

very full of incident—full of material for study of the growth and the results of education, and for careful consideration of its future problems.

It is curious to look back, from our present educational standpoint, to the early days of the East India Company. For many years after they had taken over the administration of the territories they had acquired, no attempt was made to inaugurate any regular system of education. Their policy was to leave the scattered and widely different indigenous systems such as they were to themselves, undisturbed and unsupported by grants from Government, and together with this disregard for the teaching of the people over whom they had commenced to rule there would appear to have been a marked decline, amongst the Indian population itself, in the cultivation of literature and science.

My ancestor, Lord Minto, refers to this decline in a very interesting educational Minute of March 6th, 1811; he says:—"It is a common remark that science and literature are in a progressive state of decay among the natives of India.....The number of the learned is not only diminished, but the circle of learning, even amongst those who still devote themselves to it, appears to be considerably contracted.....The immediate consequence of this state of things is the disuse, and even actual loss, of many valuable books, and it is to be apprehended that, unless Government interposes with a fostering hand, the revival of letters may become hopeless, from a want of books or of persons capable of explaining them. The principal cause of the present neglected state of literature in India is to be traced to the want of that encouragement, which was formerly afforded to it by Princes, Chieftains and opulent individuals under the Native Governments" and he goes on to tell how a liberal patronage "was formerly bestowed, not only by Princes and others in power and authority, but also by the zemindars, on persons who had distinguished themselves by the successful cultivation of letters".....

But, Mr. Vice-Chancellor, we have with us to-day a distinguished Indian gentleman, who has nobly followed the example of the great men of 100 years ago. The munificent gift of the Maharaja of Darbhanga to the University Library will

earn for him the lasting gratitude of the Indian literary world and I feel sure that I shall meet with warm approval in exercising my power as Chancellor and nominating him an Honorary Fellow for life as an eminent benefactor of the University.

But to return to early days. Perhaps it was only natural that during the hard-fought wars of the Company there should have been little time to spare for the care of the arts and sciences, whilst the great Eastern potentates who had done so much to patronise them were themselves struggling for existence. However, that may be, it was for Warren Hastings first to recognise the responsibility of the Government, and in 1782 he founded the Calcutta Madrasa for Mahomedans. Nine years later came the Hindu College at Benares and it was not till the Charter Act of 1813—one of the results of Lord Minto's Minute which I have quoted—that powers were granted to provide systematically from public funds for the furtherance of education, and such annual grants were at first confined to the encouragement of Oriental methods of instruction, till in 1835 Lord Macaulay wrote that historical minute which went far to introduce Western education into India. Then followed a period of somewhat ill-defined attempts to extend English education in which self-denying missionary effort played its full part till we reach the next important landmark, the despatch of 1854, from the Court of Directors, which prescribed, among other measures necessary for a more extended and systematic promotion of general education in India, the foundation of Universities at the three Presidency towns. The Calcutta University was incorporated in 1857 and commenced operations with about 50 schools for the Entrance Examination and 13 affiliated institutions for the B.A. Examination. It was modelled on the University of London. Except that, inasmuch as that institution was then a purely examining body, the Calcutta University has always included a far greater sphere of influence in the control of the colleges and schools affiliated to it, and Lord Canning in the midst of the tremendous responsibilities which everywhere surrounded him became its first Chancellor. Fifty years have passed by since then, and to-day an Indian gentleman, a distinguished scholar and jurist, brings to bear on

the conduct of its affairs a patriotic zeal for the promotion of higher education among his fellow-countrymen which is only equalled by his experience and administrative ability. I congratulate the University on its possession of Dr. Mookerjee as its Vice-Chancellor—a worthy successor of other eminent Judges of the High Court, who have before him filled the Vice-Chancellor's chair. But I would impress upon you that 'ne has assumed the reins of office at a turning point in the history of the University, for with its Jubilee the University enters not only on a new chronological era, but on a new *régime* under new administrative conditions, the Incorporation Act of 1857 having, as you know, been amended by the University Act of 1904. There may have been doubts as to the character of the new *régime* and the suitability of the new conditions to the wants of the country and of the educated community, but I know of no pilot more capable of steering the ship of learning through educational shoals and quicksands than Dr. Mookerjee, and I have no need to prophesy as to the future. Yet of this we may rest assured, we have embarked upon what has been very aptly called "The New Ideal" in University education in India—possibilities are in the air which have not yet been moulded into shape—early conceptions of the aims of University education are giving way to the hopes of educational influence over social life—a thirst for practical knowledge, and for the wholesome enjoyment of the advantages offered by residential colleges, is beginning to dim the momentary glories of successful examinations. I believe that on the proper development of affiliated residential institutions the power of this University to confer lasting benefits upon the people of India will largely depend. How that development can be furthered is one of the problems with which we have to deal, but in one direction it would appear to me to afford exceptional opportunities,—for the encouragement of religious training,—for though the Government of India must, as I have recently said, hold the balance evenly between all religions and sects, I cannot but feel that a system of education which aims at the training of youth with no regard for religious truths, ignores the very foundation upon which all that is noble in a people should be built.

• The entire absence of religious teaching is a defect in our system of education—and yet it is a defect with which the absolutely necessary religious neutrality of British administration renders it impossible for the Government of India to deal.

• Before the advent of Western learning secular and religious instruction went hand in hand. The teacher was also the spiritual guide, and we cannot disguise from ourselves that a system for which we are answerable has to a large extent deprived the student of instruction in his own faith. It would be useless now to speculate as to what proportion of the causes for any untoward results may be allotted to the system, or to the want of religious teachers, or to the students themselves, but I would ask the latter to assist as far as is in their power to neutralize the evil. They and the University authorities can justly look to the religious associations throughout India for assistance. I have been a University student myself and I know full well how the surroundings of University life go to form a young man's character and to assist in his future career. One is apt to think of such things perhaps too late, after we have bid farewell to our Alma Mater, when opportunities have been lost that can never be recovered, and I would ask you young men of the Calcutta University to enquire of yourselves at this period of your lives what this education has done for you, and to think how you can best utilize it. Do not let the knowledge it has given you lead you astray. It will have opened to you fresh hopes and glittering possibilities for the future, but should all the more deepen your sense of duty and responsibility. You have come to manhood at a period of great educational advancement throughout India and at a time too when through a certain backwardness in the developement of indigenous industries, there is not sufficient employment for the ever-increasing educated class who seek for it. At present too I know that high prices and increased expenditure in living are pressing hard on the "Bhadralog" of Bengal, who may naturally feel that what they have spent in education is after all yielding them but a poor return, and I fully sympathise with them in their difficulties. But yet I hope that with each succeeding year, the growth of home industries and the consequent demand for greater technical knowledge

together with the restoration of Indian arts and letters, will throw open fields of employment which now scarcely exist for those who need never think they have wasted their time in a University education. In furtherance of my hope I have great pleasure, Mr. Vice-Chancellor, in announcing that the Government of India will give an annual grant of Rs. 10,000 towards the establishment of a chair of Economic Science. Education must move with the times, and I trust that this new professorship will put within reach of the students of this University opportunities for obtaining that practical instruction which commercial enterprise and universal competition will more and more require. The past history of the University augurs well for the success of the invaluable work it has before it.

#### THE VICE-CHANCELLOR'S SPEECH.

The Vice-Chancellor next addressed the Convocation at length. In the course of his remarks he said:--

Your Excellency, Your Honour, Ladies and Gentlemen,—I deem it a great privilege to be permitted to address this Convocation which has been held in commemoration of the Jubilee of the University. On an auspicious occasion of this description, one naturally feels tempted to review the progress of the University during the fifty years of its existence and to recount the benefits which have resulted to our people from its foundation. Such an elaborate survey, however, must be more fittingly reserved for the Memorial Volume which the University intends to publish, and I must restrict my theme on the present occasion to the barest outline of the position we occupy at the present moment, indicating, on the one hand the progress we have made in the past and on the other the vastly extended range of work which we have to accomplish in the future.

Two events of paramount importance to the progress of our academic work have happened during the last twelve months and deserve more than a passing notice. To one of these, the munificent gift of two and a half lakhs of rupees by my honourable friend the Maharaja Bahadur of Darbhanga, a felicitous reference has already been made by His Excellency the Chancellor. The other is a munificent gift of another two and

a half lakhs of rupees by the late Baba Guruprasanna Ghose, one of the most cultured scions of a well-known aristocratic family of this city. Forty years ago the University was the fortunate recipient of five lakhs of rupees, out of which two were contributed by an enlightened prince of merchants, Mr. Premchand Roychand of Bombay, and three by an accomplished lawyer of this Province, Babu Prasanna Kumar Tagore. I cannot but deem it a fortunate circumstance, that on the present occasion we have enlisted the sympathies of the wealthy aristocracy of these Provinces, and that we owe our benefactions to members of that body who have lived in the temple of Fortune, and there, unsatisfied, have gone higher, by arduous steps to the temple of Charity, where they have so fittingly bestowed their gifts, in the consciousness that great acquisitions involve great responsibilities. It is worthy of note that the bounty of each has been called forth for an object which is of incalculable importance to the advancement of education in this country. The benefaction of the Maharaja of Darbhanga is to be devoted for the foundation and extension of the University Library; the benefaction of Babu Guruprasanna Ghose is to be applied to train Indian students in the Arts and Industries of Europe, America and Japan. Whatever controversy there may be as to the future development of this University, there can be no possible doubt or dispute as to the sovereign importance of a Library and a Technological Institute. Whoever, therefore, gives us ample funds for the foundation of a Library where the archives of the human race may be treasured and studied, whoever gives us funds to train our young men in laboratories, which not only open the arcana of Nature but directly promote the industries, must awaken our admiration and imperatively claim perpetual gratitude. I fervently hope, that these recent examples of beneficence, so great and wise, so well calculated to advance the moral and intellectual welfare of our youths, will not be completely lost to the many enlightened representatives of wealth and culture in this great Province.

I shall now pass on for a moment to the work of the University during the last twelve months in the way of enforcement and practical realisation of the new Regulations. As I had occasion to observe last year, the portions of the

new Regulations which are of fundamental importance, are those for the appointment of University Professors, Readers and Lecturers. They mark an epoch in the history of the University which is no longer to be restricted to its scope of an examining body with power to grant Degrees, but is in future to undertake post-graduate teaching and ultimately form a centre for the cultivation and advancement of knowledge. It is a matter for congratulation that the University has found it practicable, with the limited means at its disposal, to make a definite and substantial advance in this direction. To crown all this, we have the gracious announcement by His Excellency the Chancellor about the foundation of a University Professorship, which has been received by all with feelings of intense satisfaction, and which will make the administration of His Excellency gratefully remembered for ever as the era of effective and substantial support by the State to the cause of the highest education of Indian youths.

Another work of vital importance upon which the University has been engaged during the last twelve months is a preliminary survey of all our affiliated colleges and recognised schools. As I had occasion before to point out, the control of the University over the affiliated colleges and recognised schools, and the power of supervision created by the new Regulations, are likely to have far-reaching consequences. Henceforth it will be the first duty of the University to secure the efficiency of the colleges, and to be assured that the recognised schools are maintained as places, where sound education is imparted and strict discipline is enforced. We have within our jurisdiction more than fifty colleges and over six hundred schools; the reports upon their condition which will require careful consideration, make it amply manifest, that the institutions where our boys and young men receive their training, are, I regret to say, almost without exception much below the standard of efficiency contemplated by the new Regulations. I have no desire to magnify our difficulties, but at the same time, I feel keenly that it would be a fatal mistake to ignore them and to take a too optimistic view of the situation. It is safe to say that the educational institutions of the future, quite as much as those of the present, will be largely

controlled, if not dominated, by three factors—teachers, instruments and books. In each of these vital elements the deficiency of our institutions is remarkable. They are, without exception, undermanned; of libraries and laboratories, there are only a few, if any, which can satisfactorily stand the scrutiny of the most reasonable test applied according to western ideals. The one possible solution of the situation plainly appears to me to be the expenditure of more money for educational purposes.

From this imperfect review of our present position and future prospects, let us travel back in our imagination, for a moment, half a century, back to the time when the University was founded, and take stock of the progress we have made. I do not desire to dwell at any length on the rapidity and exuberance of the growth of the University, though it is indubitably a matter for sincere congratulation. It would hardly be profitable to recount how the University started with a dozen colleges and a few hundred students, and how, in less than a quarter of a century, the number of institutions within its jurisdiction had increased sixfold, and the students directly amenable to its influence had to be counted by thousands. I need also make only a passing reference to the circumstance, that the benefactions which the University owes to the munificence of private individuals represent fourteen lakhs of rupees to which may be added our Reserve Fund of six lakhs. I do not lay special stress upon these figures, for although they indicate to some extent the popularity of the University and some degree of prosperity, the sums at our disposal are totally inadequate for our needs and would rightly be regarded as insignificant in Europe and America, where, what has taken us half a century to accumulate, would not improbably be contributed by a single beneficent founder like John Hopkins or Leland Stanford. I pass by this aspect of the material progress of the University and I pause for a moment to ask, what progress we have made in our conception of the true scope and functions of a University during half a century of its existence. Here, at any rate, it is some satisfaction to find that we have made definite progress in the right direction. The fundamental conception which lies at the root of the Act of Incorporation of 1857 was that the

University was to be a purely examining body. Nearly half a century later we have come to realise that the object of the University is something wider and nobler than the mere application of tests, however searching they may be, to determine the extent and accuracy of knowledge acquired in institutions over which the University had no direct or adequate control. The present conception of the function of the University is, that it is an institution for the acquisition, conservation, refinement and distribution of knowledge. I believe it is the opinion of most persons competent to form an opinion upon educational matters, that this salutary change in conception of the true function of this University has been recognised not a moment too soon. The original limited conception of the University as an institution which exists solely to conduct examinations and confer degrees, necessarily produced the disastrous result that teaching was subordinated to examinations. While it may be conceded that a system of examinations, properly and reasonably conducted, has undoubted advantages in every system of academic study, it would be idle to deny that there are grave abuses and distinct tendencies to abuse in the extraordinary development of the Examination System in modern times. One of the greatest evils is hasty cram at the last moment instead of the quiet and deliberate appropriation of knowledge from day to day. Another, and, perhaps, a still greater evil, is the desire to adapt the teaching to the examination, or to put it from the point of view of the student, an ingenious attempt to circumvent the examiner by a close study of his habits and proclivities. A third evil, equally disastrous, is an artificial determination of subjects of study which are selected by the student, not entirely from the point of view of his special aptitude but very often from considerations whether a particular subjects pays well at the examination. These and other evils which, if not inherent in, are at any rate concomitant to all elaborate systems of examination, are naturally aggravated, where, as here, a University exists exclusively for purposes of Examination. I rejoice, therefore, that under our new constitution, post-graduate teaching is definitely regarded as one of the duties of the University, and henceforth I trust the

principle will never be overlooked that the teacher is unworthy of his vocation who keeps the coming examination perpetually in sight, that examinations are subordinate to teaching, not that teaching exists for the sake of examinations. Another fundamental idea, to some extent inseparably associated with the position I have just indicated, is partially recognised for the first time by the new Regulations, and when further developed, may have far-reaching consequences—I mean the recognition of the claims of research in every system of advanced education.

There are two other fundamental ideas inseparably associated with the progress of the University which deserve a brief reference on the present occasion. When this University was established half a century ago it was founded upon a policy of religious neutrality and ever since then our Regulations have wisely embodied an emphatic declaration that no question shall be asked at any University Examination which would require an expression of religious belief on the part of the candidates, and no exception shall be admissible against any answer on the ground that it expresses peculiarities of religious belief. The wisdom of this policy has never been seriously questioned, but the result has been somewhat unexpected and has often been rightly lamented. A theory has gained ground for many years past that nothing need be taught in schools and colleges which is not directly required for purposes of University Examinations and that consequently, it is no part of the duty of the institution, in which our boys and young men are trained, to consider the question of their moral and religious instruction. It is, however, undeniable that no system of education which is purely intellectual and which leaves severely alone the moral and religious elements of life can satisfy the national want or promote the growth of healthy manhood. If this University is to have a permanent hold upon the mind of our people this aspect of the problem will have to be faced and solved. I do not profess to have discovered a remedy, but I firmly believe that if the authorities of our colleges and schools earnestly take the matter in hand, a practical solution will be attainable.

The other fundamental doctrine which lies at the root of our University system of education and to which I desire to make a brief reference, is the principle that European

knowledge should be brought home to our students through the medium of English—that western light should reach us through western gates and not through lattice work in eastern windows. The validity of this principle which has been firmly settled for three-quarters of a century, has latterly been seriously questioned by people of culture and position whose opinion claims consideration. It is enough for me to remind you that nearly twenty years after the foundation of the Hindu College by my countrymen, the struggle between what has been not very felicitously described as Anglicism and Orientalism, terminated in favor of the former, and the great Minute of Lord Macaulay and the famous Resolution of Lord William Bentinck, set the seal of authoritative approval upon the principle unsuccessfully advocated by Raja Ram Mohan Roy and Dr. Alexander Duff, that a thorough first-hand acquaintance with English language and literature will always be essential to those amongst my countrymen who aspire to a high order of education. Who can deny that the Universities, founded upon just and liberal principles, under such circumstances and amid such surroundings, will for ever remain as striking monuments of the coolness, the persistent energy and the generous impulses of the British race? Can it then be suggested with any semblance of reason that the Universities so generously established, have failed in their object of the dissemination of European education amongst our people? I have no hesitation that the answer should be an emphatic negative.

Graduates of the University of Calcutta, who have this day been invested with academic insignia, I call upon you to rise to the true dignity of the position which you have just attained and to recognise and fulfil the responsibility which it imposes. Do not imagine that the charge which I have addressed to every one of you on admission to your respective degrees, that you should in your life and conversation, show yourself worthy of the same, is a meaningless platitude or an idle formula. Treat it as the parting message of the University to each and every one of you who have been trained, and, I trust, adequately equipped for the battle of life, under her beneficent guidance. If I were called upon to develop this charge, I would exhort you in the words of one of the greatest

teachers of mankind : " whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report, if there be any virtue and if there be any praise think on these things." In whatever sphere of life your lot may be cast, prove yourself to be the true children of your Alma Mater. Educated by the liberality of the State or by private munificence, strive strenuously to make adequate return ; with anxious solicitude, promote the education of your countrymen, and be each of you a bright centre of moral and intellectual activity like the scholars of Mediæval Europe, who laden with Greek and Roman learning, brought many of the gems of ancient lore within the reach of those who never had the benefits of classical education and knew none but the vulgar tongue. Make your mission the diffusion of knowledge and virtue and the repression of ignorance and evil. Above all, endeavour to attain stability of character and cultivate that principle of honour, which once tainted or lost can never be regained. Forget not, that unless you are honorable men, all your talents, learning and industry will be in vain, and your intellectual powers will be a snare to yourselves and a delusion to others. Cultivate that humility of spirit which the learned and unlearned alike instinctively feel is the true stamp of culture and wisdom. Cultivate also that spirit of obedience to lawful authority which is the necessary concomitant of true academic discipline. Make yourselves Captains of the peace of the Realm and prove yourselves loyal and valuable citizens, worthy of the confidence alike of your rulers and of your countrymen. Show the world that education and loyalty are not only consistent, but that the more advanced the education, the more genuine the culture, the deeper the attachment to your rulers. Prove to the world, that genuine allegiance is felt by you for the nation, which by a liberal and enlightened educational policy have brought your minds into intimate contact with the spirit of the West, and show that such allegiance may be rendered without the least relinquishment of your own nationality and without loss of genuine pride in the magnificent legacy of your ancient civilisation.

Students of this University, allow not the pursuit of your studies to be disturbed by extra-academic elements. Forget not that the normal task of the student, so long as he is a student, is not to make politics, nor to be conspicuous in political life. Take it as my deepest conviction, that practical politics is the business of men, not of boys. You have not that prudent firmness, that ripe experience, that soundness of judgment in human affairs which is essential in politics, and will be attained only in the battle of life, in the professions and in responsible positions. Train yourselves, if you please, in Political Economy, Political Philosophy, Jurisprudence and Constitutional Law; acquire an intelligent comprehension of the great lessons of History; but delude not yourselves in your youthful enthusiasm that the complex machinery by which a State is governed may be usefully criticised and discussed without adequate training and laborious preparation. Remember further that if you affiliate yourselves with a party, you deprive yourselves of that academic freedom which is a pre-requisite to self-education and culture. Submit not, I implore you, to intellectual slavery, and abandon not your most priceless possession, to test, to doubt, to see everything with your own eyes. Take this as a solemn warning that you cannot with impunity and without serious risk to your mental health, allow your academic pursuits to be rudely disturbed by the shocks of political life. Devote yourselves, therefore, to the quiet and steady acquisition of physical, intellectual and moral habits, and take to your hearts the motto

“Self-reverence, self-knowledge, self-control.”

These three alone lead life to sovereign power.”

Follow the path of virtue, which knows no distinction of country or colour; be remarkable for your integrity as for your learning, and let the world see that there are amongst you

“Souls tempered with fire,

Fervent, heroic and good—

Helpers and Friends of mankind.”

The Vice-Chancellor then declared the Convocation closed and the procession left the Hall in the same order in which it entered.

## CRITICAL NOTICES.

**BOMBAY IN THE DAYS OF GEORGE IV.—Memoirs of Sir Edward West, Chief Justice of the King's Court, during its conflict with the East India Company by P. Dawtrey Drewitt, M. A., M. D., Longmans Green and Co., London, 1907.**

THIS book is mainly a vindication of the character of Sir Edward West, the first Chief Justice of the Bombay Supreme Court, from the many unjust aspersions cast upon his reputation and integrity by his opponents whom he had the hardihood and independence to dissatisfy by his impartial administration of justice from the Bombay Bench. After his death, his opponents and their biographers were enabled to deal with the dead judge's memory just as they pleased without any fear of contradiction, as Sir Edward West did not leave behind him any one capable of giving to the world a true and just reading of his judicial character. As such, the notices of Sir Edward West's career as an Indian Judge which we now find in some biographical dictionaries, betray a bias against his memory, and oftentimes convey false impressions about his judicial integrity. In most cases, these biographical notices are very meagre for the simple fact that very little is known and made public of Sir Edward West's career at home and in India. *The Dictionary of National Biography* knows him only as a political economist and devotes but a single sentence to his life as an Indian Judge. No adequate notice of Sir Edward West's life was ever published before, and it had remained for Dr. Drewitt to perform that work quite satisfactorily. •

In the present volume we not only find a necessary vindication of Sir Edward West as an Indian Judge, but also a full account of his life compiled from the newspapers and magazines of the period. Being a relation of Sir Edward West, our author has also been able to use some original letters and diaries of Lady West, which indirectly give us an excellent idea of the Anglo-Indian social life of Bombay eighty years

ago. They also bring before us, in its true colour, the antagonism of the high officials of the East India Company, with which all King's Judges had to contend, during the years immediately preceding those great reforms which were effected by Lord William Bentinck as Governor-General of India and followed necessarily on the renewal of the Company's Charter in 1833. The King's Judges were expressly sent out by the Crown to check the greed and injustice of the servants of John Company and to uphold, on behalf of the British Parliament, England's honour and fair play towards the natives of India. Those of them who had the independence to check the thousand and one iniquities by an impartial administration of justice, naturally incurred the displeasure of the Executive Officials in those days and encountered an opposition from the latter which made the position of a King's Judge a very embarrassing one. Sir Edward West never flinched from his duty, and his rigid devotion to what he thought his duty sent dismay not only to the Governors of the Presidency but also to others who were then aggrandising themselves at the expense of the people of Bombay. West strongly repressed the irregularities of the Bombay High Court and purged it from the defects which made administration of justice a mere mockery. He did a noble work, and like all benefactors of mankind, had been branded with infamy by his opponents after his death.

Sir Edward West came to India as Recorder of the King's Court of Bombay, which was established there in 1799. The jurisdiction of this Court extended only to the inhabitants of the Bombay Presidency, and to those who had dealings with them. As we have said above, the judges of the Recorder's Court were appointed to act as a check on the East India Company and a protection to the natives of India against oppression and extortion. Naturally enough the Company regarded them with suspicion and dislike, and did all that was possible to restrict their powers and limit their jurisdiction. Their instructions too were intentionally ill-defined, and Parliamentary support was uncertain. The Crown, in fact, acted as the absentee landlord of British India, not quite sure of the extent of its title to the

great estate ; and it sent to each of the three Presidency towns, Calcutta, Bombay, and Madras, the King's Judge as its agent to enforce English law and justice and fair dealing on its powerful tenant, the East India Company. The latter, however, ever regarded the sovereignty of their Indian territories as their own private property and always instructed their servants both civil and military accordingly. They resented all along all interference with Indian affairs by Parliament and Crown as an unwarrantable invasion of their rights. Under such circumstances and at a time when the administration of both civil and criminal law was very defective, it was impossible for the King's Judges who did their duty not to come into collision with those who were the custodians of the East India Company's rights and privileges as Sovereign of India.

Sir Edward West was born in 1782. He was a son of Balchen West, who had been Receiver-General for Hertfordshire. Early in life West lost his father and was taken care of by his uncle, Sir Martin Browne Ffolkes, F. R. S., nephew of Martin Ffolkes, one of the first Presidents of the Royal Society, and friend of Isaac Newton. At Hillington West received his early education and was sent to Harrow whence he went to University College, Oxford. Here he took the Arts' degree and was placed in the first class both in classical and mathematical attainments. He was also elected a fellow of the College. In 1814 he was called to the Bar at the Inner Temple and rose rapidly. In the following year he wrote an essay on the *Application of Capital to Land* and published it anonymously at the suggestion of Lord Brougham. It was considered a great triumph of his judgment and acuteness on questions of Political Economy. On news of the death of Sir William Evans, reaching England in 1822, Sir Edward West was appointed Recorder to the King's Court of Bombay. Before leaving home for the last time, West quietly married Lucretia Ffolkes, the youngest daughter of his uncle and guardian, Sir Martin Ffolkes, and received the customary Knighthood from the King of England. On the 1st February 1823, Sir Edward and Lady West arrived at Bombay. From the day of their departure from England, Lady West kept a diary which has been largely used in the book under review. Mounstuart

Elphinstone was then Governor of Bombay, and from him as well as from the officials, Sir Edward and Lady West received a cordial welcome.

From the date of his arrival in Bombay, until his death, which occurred in 1828, Sir Edward West laboured incessantly for a purer administration of justice and for more equal laws. On February 12th, 1823, Sir Edward West took his seat as Recorder of Bombay, and on 19th April delivered his first address to the Grand Jury, in which he pointed out boldly the several irregularities of the Recorder's Court which impeded seriously the fair course of the administration of justice. As there was much plain speaking in this address, it was not appreciated by the Bombay Society; on the other hand, it gave rise to feelings of irritation in the minds of Bombay officials who were surprised at the independence of the new Recorder. The next case tried by the Recorder in the year of his arrival gave still more offence to the Bombay Government. A respectable Parsi merchant undertook to supply rice to the local Government in 1802 under a contract. The price of rice fell below its market value, but the contractor agreed to supply on the condition that for one year all rice required for the Military Department should be bought from him alone. To this new condition the local Government agreed, and the merchant made large purchases. But the local Government finding the market depreciating, bought rice privately and did not take any delivery from the native merchant. He, therefore, claimed damages which were refused by the Bombay Government. This case ultimately came for trial before Sir Edward West in April 1823, and he not only decreed the original sum claimed, but gave an award of fifteen years' interest to the Parsi merchant.

But on 18th June, 1823, another event occurred which excited fiercer passions and divided Bombay society into rival camps. This was the dismissal of William Erskine, Clerk of the Court of Small Causes, and Master in Equity in the Recorder's Court. Erskine came out to Bombay with Sir James Mackintosh, his father-in-law, in 1803, and became immediately editor of the *Bombay Courier*. In 1805 when his father-in-law, Sir James,

founded the Bombay Literary Society, Erskine became its Secretary and began to devote his attention to Oriental studies. When Mounstuart Elphinstone became Governor of Bombay in 1819, Erskine became one of his fast friends. When Sir Edward West became Recorder, several charges were brought against Erskine for misappropriation, and investigations were made by the Court regarding the conduct of the Clerk of the Small Cause Court. On the 18th June, 1823, a special Court consisting of the Recorder, the Mayor and three aldermen was held to consider the complaints against Erskine, who admitted all his irregularities and stated in his defence, that owing to ill-health and various other causes, the business of his office had been left very much to his native assistant. Due consideration having been given to Erskine's defence, the Recorder announced the findings of the Court thus:—That a fraud of considerable extent had been committed for Mr. Erskine's benefit; that in addition, there had been contradiction in his account of the transactions; that the Court might punish him summarily as their officer; that the issuing of subpœna tickets without subpœnas was alone a contempt of Court; that there was more than sufficient evidence for his dismissal from his office; that in this decision the Court was unanimous. So Erskine was dismissed, but the Governor of Bombay, Mounstuart Elphinstone, on behalf of the Bombay Literary Society, and in the name of the Bombay public, gave Erskine a warm farewell on his "unexpected return to his native country." He was asked to sit for his portrait, and everything was done by the Governor to mitigate the sting of dismissal. This was a covert attack on the King's Judge. Most strangely, the Bombay newspapers of the time were silent on the proceedings of the Court which led to Erskine's dismissal, but were very loud on the Governor's farewell to Erskine. They convey really an impression that by dismissing Erskine, Sir Edward West perpetrated a serious miscarriage of justice.

Erskine's dismissal was but a prelude to still more unfortunate incidents. In 1823 Mr. George Norton (father of Mr. Eardley Norton, formerly of the Madras Bar, now an Advocate of the Calcutta High Court) came out to Bombay as Advocate-General. He introduced a scale of fees higher than

those sanctioned by the Master in Equity and on "an average seven times as great as those usually received in England." Together with two other fellow-advocates, the Advocate-General was making at this time such extravagant demands for fees, that a lawsuit on which they were engaged, could not be proceeded with, and the solicitor, Mr. Ayrton, appealed to Sir Edward West for redress against what he considered extortion. The Recorder decided against the Barristers and directed that any fees beyond those usual in England must be left to the discretion of the Master in Equity and of the attorney, the only person capable of judging of the importance of the case and of the client's circumstances. This decision led to the writing of a round robin to the Recorder. At a meeting of the Court on 10th October 1823, a memorial signed by the five Barristers including the Advocate-General, Mr. George Norton, was presented to Sir Edward West asserting that new and illegal practices had been introduced, that the Recorder had been guilty of "irregularity" in the administration of justice, whereby the professional rights and privileges of the Bombay barristers had been prejudiced; for, although, in order to give cheap justice to natives, a Court of Small Causes to which barristers were not admitted, had been established at Calcutta and Madras, the power to establish such a Court had not been extended to Bombay; that the introduction of attorneys to practise as advocates was another innovation of an injurious tendency; that the Court had been illegally held in private for the punishment of alleged offences (in the case of Erskine), and that the rules of the Small Cause Court were not warranted by the King's Charter. Two days later, at a meeting of the Court, the Recorder stated that he was bound to take notice of this "libellous memorial" handed up to him by the gentlemen of the Bar who ought to respect the Court. He would ask them what excuse they had to offer for the libellous memorial. Each barrister was then heard in turn, and the Recorder after conferring with the other members of the Court, stated that they had considered the memorial, and that nothing put forward on the part of the Bar had mitigated the impropriety of their conduct; that on account of the insult offered to the Court, the sentence was that the Barristers be suspended for six

months, and that in the meantime attorneys be allowed to practise as advocates. The barristers thus suspended were Mr. George Norton, Advocate-General, Mr. Le Mesurier, Mr. Irvin, Mr. Parry and another.

On the 8th May 1824, the Supreme Court of Bombay was established, and Sir Edward West was appointed Chief Justice. Sir Charles Harcourt Chambers arrived in Bombay as a colleague of West. In July following, during a long lawsuit, an incident occurred which ended in the banishment of Mr. C. J. Fair, editor of the *Bombay Gazette* by Mounstuart Elphinstone in the following way. It appears that when the Supreme Court of Bombay was sitting, a young civil servant, Shaw by name, ordered a native usher to bring him pens and paper. The official replied that he had been stationed where he was by the Judge's orders and could not leave, but that a sepoy would bring what was required. Thereupon Shaw struck the usher a heavy blow on the temple. A writ for contempt of court was issued against Shaw, and as a matter of course, Mr. George Norton, Advocate-General, was asked by the judge to conduct the prosecution. Mr. Norton replied that he was not bound to prosecute offenders against the Court unless ordered to do so by the Governor, and that he had accepted a retainer from Mr. Shaw. The trial proceeded; Shaw was found guilty and fined one rupee. Throughout this trial, the *Bombay Gazette* of which Mr. Francis Warden, a member of the Bombay Council, was the chief proprietor, commented freely on the proceedings. To this, Sir Edward West called the attention of the Governor, and the Governor undertook to reprimand the Editor, Mr. Fair. The latter part of the trial was presided over by Sir Charles Chambers who wrote to Elphinstone complaining that he had been misquoted and misrepresented in the *Bombay Gazette*. The judges did not prosecute the editor, but Elphinstone on receipt of the letter from the Judges, demanded from Fair an immediate and public acknowledgment of the mis-statements and an ample apology to Sir Charles Chambers. Fair offered to insert an apology in the *Bombay Gazette* together with a report of that part of the trial which had been omitted, and sent a copy of the apology for the Governor's approval before inserting it in the paper. The

Governor replied that the apology was not sufficiently explicit, that Fair consequently had forfeited his claim to the protection of the Government, that his license to reside in the East Indies would be withdrawn, and that he must leave at once or give security in 30,000 Rupees to leave within three months. Fair replied that it was impossible for him to give such security. He was then handed over to the Magistrate of police, hurried on board the Company's ship *London*, and shipped for England, by a long sea route.

From the above statement of facts, it will be seen that it was Elphinstone, Governor of Bombay, and not Sir Edward West who should be credited with the severe punishment inflicted on the Bombay editor. Hence the popular belief that Sir Edward West banished the Bombay editor is quite erroneous. Sir Charles Chambers never suggested any measures for adoption by the Government. He merely stated the fact of the misrepresentation to the Governor who of his own accord deported Mr. Fair. The whole truth is that before the Shaw trial, orders had been received from the Court of Directors to send Fair home unless a license arrived for him by a certain day, which had elapsed. Elphinstone was only waiting for a suitable occasion to send Fair home, and the incident noted above furnished. Yet, in the face of all these indubitable facts, Colebrooke in his life of Elphinstone says:—"It has been seen that one of the first acts of the Court was to appeal to the Executive to deport an unfortunate editor." And still more amazing is the statement made by the author of "Glimpses of Old Bombay" that Sir Edward West himself "deported Fair."

In January 1826 an unpleasant incident occurred which is thus described by Lady West in her Diary under date 6th January 1826:—"We dined yesterday at Parel; Mr. Elphinstone handed the bride Mrs. G. Forbes to dinner, and I went down with Mr. Warden. The Governor thought proper not to allot any Lady to Edward, though the first person in the room, and it was so unusual, that before he had time to look around, all the ladies were gone, and he was left to walk downstairs among the Cadets; and when he reached the dining-room, he was obliged to seek

General Wilson and Mr. Burrowes to allow his servant to place a chair between them. Edward wished to have come away quietly as soon as the gentlemen came up in the Drawing Room and to avoid Mr. Elphinstone, who stopped him at the head of the stairs and said something about a slight mistake. Edward of course asked for an explanation, this not being the first or the tenth time Mr. Elphinstone has behaved with rudeness at his house. Of course we then came away, expecting to receive some apology next morning for such extraordinary conduct. This morning, whilst Edward was walking on the Esplanade, a note was brought from Colonel Macdonald to beg for a few minutes' conversation alone. He soon rode up and with not much courtesy actually challenged Edward, unless he made an apology for what he said the night before; certainly rather reversing the tables, as of course Edward [illegible] an apology from him; and as to going out, as Edward told Colonel Macdonald he was amazed both at Mr. Elphinstone's sending, and his bringing such a message. He could only consider it as a taunt; and then to get out of it, Edward's word the night before of 'explanation' was tortured into '*satisfaction*.' Edward, of course, wrote to Mr. Elphinstone his astonishment at the mistaken words, and if he fancied Edward challenged him, why did he send a friend to appoint time and place."

This unfortunate incident led to some correspondence between the Chief Justice of the Bombay Supreme Court and the Governor of Bombay. It has been given in full in the present volume. Eventually Elphinstone managed to convince the Chief Justice of his good intentions, as there was much to be explained away and apologised for. In June 1826, another incident happened which drew forth the attention of the Court of Directors on the connection which their servants had with the Public Press. During a sitting of the Supreme Court, Mr. Francis Warden, Member of the Bombay Council, handed to the Judges and others, a printed letter, signed by himself, insinuating that the Judges had furnished the *Oriental Herald* of London, edited and owned by James Silk Buckingham of *Calcutta Journal* fame, with a statement that he had unfairly used his power as a newspaper proprietor

(of the *Bombay Gazette* and *Bombay Courier*). In this letter Mr. Warden acknowledged his proprietorship of the papers, but denied any bias against the King's Court. Sir Edward West after pointing out the impropriety of the letter, the groundlessness of the insinuation, and the continued misrepresentations appearing in Mr. Warden's paper, told him that he as newspaper proprietor was answerable both civilly and criminally for the contents of his paper, but as by the Charter, he was exempt from all criminal responsibility to the Law Courts of India, this fact alone showed the extreme impropriety of a member of Council becoming the proprietor of a newspaper. Irritated at this remark, Mr. Warden, at the secret connivance of Elphinstone, laid complaints against the conduct of the Chief Justice before the Court of Directors. Of this memorial, Sir Edward West was provided with a copy by the Governor of Bombay to enable him to prepare a reply. The Chief Justice immediately forwarded to the President of the Board of Control a spirited report on the "Interference of the Bombay Government with His Majesty's Court and Judges," in which he severely attacked Francis Warden for his share in the Bombay Press and Elphinstone for his secret connection with the Bombay newspapers. The Bombay Governor was obliged to deny all connection with the Public Press, and so, no doubt, made easier the unexpected answer from the Court of Directors ordering that in future no Company's servants shall be proprietors and editors of newspapers. All connection with the Press by the Company's servants was strictly forbidden in 1826.

At this junction Elphinstone most unwisely presented to the Judges for their sanction a proposed law prohibiting the publication of any newspaper except by persons holding a license, revocable at will, from the Bombay Governor. The proposed regulation was carefully considered by the King's Court. Sir Edward West decided that there was nothing in the state of Bombay society to justify such a restriction on the liberty of the subject and gave his opinion against the law. Sir Ralph Rice, a Judge of the Bombay Supreme Court, thought the Regulation inconsistent with British Law, but would defer to the Bombay Council.

Sir Charles Chambers supported the opinion of the Chief Justice, and believed that to introduce such a rule at a "time of perfect tranquillity would be imposing new shackles to restrain no evil, and, by leading to by-paths of favour and influence, to create perhaps a greater evil than it could obviate." The Court then gave a judgment against the proposed Regulation to the relief of all honest journalism and to the great indignation of the Bombay Government.

In November 1827, Elphinstone retired from the Governorship of Bombay and Sir John Malcolm succeeded him. Shortly after, Sir John Peter Grant of Rothiemurchus arrived in Bombay as a puisne judge of the Bombay Supreme Court in the place of Sir Ralph Rice. The Bombay officials for some reason seem to have thought that Grant would side with the official party, leave the Magistrates alone and join readily in shaking the boughs of the ever-fruitful pagoda tree. In this mistaken notion, they gave Grant a hearty welcome on his arrival at Bombay to win him over to their side. But alas! they reckoned without their host. Not the smiles of the Governor, nor the prospect of wealth and advancement, could make this Highland gentleman budge from the position he saw to be the right one. He loyally supported his colleagues during their lives; and after their death, protected their reputation, defying that incarnation of the buccaneer of the Old East India Company—Sir John Malcolm; declaring that, though the letter of the Bombay Government "had killed his fellow judge" it should not kill him; and bereft of friends and all the legal help on which he had depended, bravely administered English law to the best of his power.

But Sir John Peter Grant was not long associated with the Chief Justice, as the latter in August 1828 was seized with a sudden illness and died. A pathetic picture of the closing scene of Sir Edward West's earthly career has been given by his devoted wife in her diary and we give it here as she wrote on the 17th August (Sunday):—"The night has been a dreadful one with hiccough and fever, and his dear mouth so parched. God have mercy upon him, and support me under the awful trial which I fear awaits me. He laid in my arms and his breathing became fainter and fainter, and his dear soul

departed at half-past eight on Monday morning, August 18th, 1828." I closed his sweet eyes myself, and sat by the bed and watched his sweet countenance all day. It was so calm and serene. At six I was obliged to take my long last kiss and I wonder that I am alive and in my senses, but God, in his mercy, has wonderfully supported me. *August 19th (Tuesday).*—At six this morning the Minute Guns began to fire; each seemed a death-blow to me. At seven I went to Church with my beloved Edward and saw him put into his grave. Good God, what a moment—one only longs to be there also." This longing was satisfied within a fortnight. On the 4th September she died in giving birth to a child who did not survive. Her life and Journal ended together. They left a daughter who was taken care of at first by Sir Charles Chambers and then sent to England. She grew up and married Colonel R. G. Wale, son of General Sir Charles Wale, K.C.B.

Great regret was felt in Bombay at the death of the Chief Justice. The natives of Bombay, Hindoos, Parsees and Mahomedans, combined and founded a scholarship in memory of Sir Edward West. Both the Bombay Government and the Bombay newspapers paid honour to the memory of the deceased. The former ordered forty-five minute guns, corresponding with the age of the deceased, to be fired from the ramparts of the garrison, and that the flag of the castle be hoisted halfmast high. The latter came out with long appreciative obituary notices. Soon after, Sir Charles Chambers, his colleague on the Bench, published a memoir of Sir Edward West—a small pamphlet signed "Scaevola," of which there is no copy in the British Museum or India Office libraries. The world now knows more of him through the indefatigable labour of love of Dr. Drewitt. The present memoir is written not only with sympathy but also with a considerable knowledge of the time during which Sir Edward West worked on the Bombay Bench. Hence it is a distinct gain to the historians of India who formerly wrote on the Bombay Judge with imperfect and inaccurate information. The present volume is a storehouse of accurate information about Bombay during the days of George IV, and the fact that our author has been able to publish in all Lady West's excellent "diary" and some other hitherto

unpublished letters and documents, justifies the remark that Dr. Drewitt has done a work of permanent value and importance by rescuing from oblivion a noble career of a noble man.

**THE PEOPLE OF INDIA.**—By Sir Herbert Risley, K.C.I.E., C.S.I.  
• Calcutta : Thacker, Spink & Co., 1908.

It is customary with Europeans, and especially with those Englishmen who have seen India, to speak of this country as a perplexing world. Physically and socially, India really presents to European observers a series of the most difficult puzzles. The fact that everything here is on a bewildering scale has baffled all attempts of those European writers who have endeavoured for the last one hundred and fifty years to bring home to their countrymen the origin of the difficult puzzles and the growth of so many perplexities in both physical and social India. The Europeans generally read what these writers say, learn up their figures try to understand their descriptions, but fail for all their labour to realise what India is. Usually they form a picture of the land in their minds—either as a green delta or a sun-baked plain, a wild region or a vast park, but when they come here they see that there is no India; that the peninsula so called is as large as Europe west of the Vistula, and presents as many variations of scenery. Thus in its external or physical aspect, India is a puzzle to many Europeans. It is also the same in its social aspect. The European thinks of Indian Society as an innumerable crowd of timid peasants “divided into castes” and separated from each other by impassable lines of demarcation. But when he comes and lives among these people who seemed to him at first so disunited and disjointed, and whose society he at first thought to be so unsafe and insecure, it occurs to him that there is an essential unity among the diverse Indian castes, in virtue of which Indian Society has continued as a stupendous social fabric moulding together the great mysterious incorporation of the Indian races for the last three thousand unbroken years. Then it occurs to him that through the segregativeness, the separation into atoms of Indian Society there is an attraction which

has galvanised the diverse Indian races into a national character—a general personality. Then he clearly understands that a certain uniformity of life underlies the Indian races from the Himalayas to Cape Comorin and gives to Indian Society that consciousness of common interests which may develop in time into a sentiment of nationality.

Sir Herbert Risley, in his latest work, has tried to study the people of India scientifically, his chief aim being to systematise the knowledge that has been gained by ethnological researches among the races of India. Such a scientific study may, in the end, discover some common basis from which the Indian castes may have derived their gradual developments; in such a systematised knowledge of the Indian castes, we may detect their motive principle and how their modern developments have taken shape; and thus indirectly neutralise those difficult perplexities and puzzles which obstruct so materially the European view of Indian tribes and castes. No scientific study or investigation can proceed without some hypothesis, and if the known facts can be satisfactorily explained and verified on the foundation of such an hypothesis, scientific study of a subject can only proceed on the right lines. In the first chapter the author has taken for granted the scientific classification of the human race into three primary types, the Ethiopian, the Mongolian and the Caucasian. This classification is based on the science of anthropometry. In Europe and elsewhere, where there is no restriction on inter-marriage and where there is nothing to prevent the union of the Swiss with the Saxon, anthropometrical classification of a people must be held to be quite inconclusive, but in India, where the population is broken up into a large number of mutually exclusive castes, the members of which are forbidden to marry outside of the caste to which they themselves belong and thus definite types of people are living from time immemorial without losing their characteristics, physical and social, it is thought that the science of anthropometry, if applied to the Indian people, would produce conclusive data for an eventual determination of the classes into which the human race ought to be divided. With this object in view our author some years ago took the anthropometrical measurements of eighty-nine tribes and castes of India, and

was led to believe from the data obtained from his measurements, that it was possible to distinguish in the area covered by the experiment, three main types which were named provisionally Aryan, Dravidian and Mongoloid.

We have said above that science must proceed on an hypothesis. It is now clear that the science of anthropometry takes for granted that there are certain types of man in the world and that all existing individuals can be brought under any one of these types by the measurements of their head, nose and face. This is the hypothesis of anthropometry. Against this it has been urged by some scientific men and philosophers that the types now taken for granted as primary are not so, that the type of the primitive man and woman is quite unknown, and that which is taken as primary is really an admixture of the primary types. Besides, it has also been urged that as the formations of the nose, the head and the face of men are influenced by the climate of the region in which they live, they do not necessarily denote that these men always belonged to a particular type possessing a peculiar formation of these physical organs. A Mongolian family which is now anthropometrically distinguished as such by their having coarse straight hair without any tendency to curl, broad and flat nose, sunken eyes and moderate sized teeth, may lose these physical characteristics by changing their habitat and acquire totally different characteristics, in course of time, approaching those of the other types. Then they may cease to be Mongolian anthropometrically. Thus a Mongolian type may by climatic and other natural influences become an Aryan type.

Then, again, there is another difficulty which has been differently touched upon by our author. Do anthropometric measurements by which human beings are being divided into different physical types reveal any real traces of their consanguinity? Does a particular physical type, say, the Dravidian-Mongoloid type, prove that this particular type is really Dravidian-Mongoloid in consanguinity? The Bengalee people have been called Dravidian-Mongoloid in physical type; does this prove that these people are socially or consanguineously a cross-breeding between the Dravidian and the Mongolian? Sir Herbert Risley is not decisive on the relation which anthropometrical measure-

ments have with consanguinity. If they do not prove consanguinity, besides the physical characteristics of a particular type, anthropometrical conclusions must be said to be devoid of any perennial value to the study of mankind. In that case, a people Aryan in blood may be Dravidian-Mongoloid in physical features, that is, anthropometrically and *vice versa*. This incongruity between the physical features and the consanguinity of a people has been the greatest drawback of anthropometry in Europe; the same inconsistency seems to reveal itself in all the physical types in which the Indian people have been divided by our author. If, on the other hand, our author hold that anthropometric data reveal also the consanguinity of a people, we would ask him to prove that by historical facts before we can persuade ourselves to believe in his contention. The Bengalee Brahmans fall within the Dravidian-Mongoloid type; we would ask the author to show that they are Dravidian-Mongoloid in blood if he hold that physical features reveal consanguinity. Without calling in the aid of historical facts bearing on the point, there is no other way of proving the necessary connection between consanguinity and physical features. But this task has been left undone, and no attempt has been made to connect consanguinity with physical features or anthropometric data.

The physical data gained from anthropometric measurements have enabled the author to divide the people of India into seven main physical types to which the following distinctive names have been assigned :—(1) The peoples of Beluchistan, Afghanistan and the North-West Frontier Province have been called the *Turko-Iranian* type; (2) of the Punjab, Rajputana and Kashmir, the *Indo-Aryan* type; (3) of Western India, including the Mahratta Brahmans, the *Scytho-Dravidian* type; (4) of the United Provinces of Agra and Oudh, Behar and Ceylon, the *Arya-Dravidian* type; (5) of Lower Bengal and Orissa, the *Mongolo-Dravidian* type; (6) of the Himalayas, Nepal, Assam and Burma, the *Mongoloid* type, and (7) of Madras, Hyderabad and Central Provinces, the *Dravidian* type. It is gently hinted that these distinctive names for the types beg the highly speculative question of the elements which have contributed to their formation, and that if hypotheses of origin

are worth constructing at all, one should not shrink from expressing them in their most telling form. Quite true. But one must have undoubted historical facts for the construction of such hypotheses of consanguinity, which are, however, wanting at the present time. Our only guides now are tradition and conjecture, on the basis of which a hypothetical study of the evolution of the Indian people may be possible ; but an attempt to prove the consanguinity of a type on the frail bases of tradition and conjecture is, we believe, a hopeless task. The distinctive names show that the first five types are mixtures ; but what evidence have we to hold conclusively that the people who belong to each of these types are really of mixed origin ? To hold that these types are of mixed origin, is to contradict the view of caste as taken in the next chapter, according to which intermarriage between the castes is quite impossible. Are we then to believe that the origin of these types took place before the origin of castes in India ? Surely mixture could not have taken place after the formation of Indian castes which rigidly forbid intermarriage. That there is some truth in this contention is admitted by our author when he says that "the origins of these types are hidden in the mist which veils the remote era of the Aryan advance into India." Hence whatever hypotheses of the origin of these types we adopt now on anthropometrical measurements, we are bound to hold at the same time that these types owed their origins before the era when the incorporation of the Indian people into castes took place gradually. Formation of castes strictly forbade mixture.

From physical types, the author proceeds to social types of Indian people. There are at present a very large number of castes into which the people are divided, and the author has tried to divide these castes into types or divisions. Tribal, functional, sectarian, national, crossed, migratory, customary, these are the names given to the various divisions of castes. Such divisions are always misleading, for caste has been given to a community which does not know caste. In this chapter, the word caste has been most loosely used, for the Native Christians have been called a caste. In fact, no attempt is made to confine the word caste to the Hindus who only know castes in their real forms. Among the Hindus and within the pale of the

Hindu community, it is impossible to have a new caste ; if any such is now found, it is an outcaste without the pale of Hinduism. Change of occupation or customs does not lead to the formation of a new Hindu caste ; in fact, if that be possible, the whole Hindu caste system would immediately tumble down. A Hindu is a Hindu so long as he belongs to one of the standard Hindu castes ; if he does not belong to one of these, he becomes fallen, just as the Piralis have been. A Hindu caste is really a caste in the true sense of the word ; those castes which lie outside its pale are not strictly endogamous, and, as such, should not be called a caste, but a class. Our author has not used the word caste in this restrictive sense, but applied it generally to all classes of the Indian people, no matter whether they belong to Hinduism or not. A Hindu is hence surprised to read that new Hindu castes are being formed frequently ; as a matter of fact, these new formations are outcastes and not strictly endogamous. Instead of calling these outcastes as castes, the proper course would be to call them groups or classes as distinguished from Hindu castes.

Caste has been defined as a matrimonial group, the members of which are forbidden to marry outside their own circle or group. This description of caste as given by our author is quite accurate, and we hold that according to this definition, non-Hindu classes or outcastes cannot strictly be called *castes*, for the reason that these outcastes or classes can marry outside their own circle or group or class. An example will make this clear. According to Sir Herbert Risley, the class of the fallen Brahmans, Pirali, is a caste. We hold that according to the definition given above, Piralis cannot be called a caste because they can marry outside their group. Piralis often marry Brahmans ; in fact most of their sons-in-law have been recruited to their class from the Bengal Brahmans. It is not strictly necessary that a Pirali should always marry a Pirali ; they are, indeed, always willing to give their daughters in marriage with Brahmans, if the latter consent to marry a Pirali woman. A Brahman marrying a Pirali becomes a member of the Pirali class, that is, becomes a fallen Brahman. So also the modern Brahmo community—really a sectarian class—cannot be called a caste, for they do not, in any way, tolerate any caste distinctions.

There is nothing to forbid a Brahmo to marry outside his own community ; it is not necessary that a Brahmo should always marry a Brahmo ; in fact, they always marry Hindus of all castes to swell the bulk of their community. Hence how can the Brahmo community be called a *caste* according to the above definition ? Caste is essentially a Hindu social institution and should, therefore, be always distinguished not only from out-castes or classes mostly non-Hindu, but also from sects. There are many non-Hindu castes as well as non-Hindu sects. To none of these should the word *caste* be applied, as they are not really castes in the strict sense of the word. We think, therefore, that our author has caused confusion by calling all Indian sections, groups and classes, castes. There is some essential difference between a Hindu caste and a non-Hindu class ; had there been none, there would not have existed now a thing called the Hindu society. The rigidity of marriage restrictions is the life of Hindu castes ; this differentiates them from non-Hindu classes, and as this rigidity is wanting in the latter, they cannot be called castes. The Native Christians of India are really a community ; so also the Eurasians ; the Hindus, the Mahomedans, the Jains, etc. Except the Hindu community, none of these is divided into castes ; so the word caste should always be applied to different sections of the Hindu community, for these sections are really typical castes as they are forbidden to marry outside their own castes. But Sir Herbert Risley has not observed this fine distinction of caste in his application of the word to all sections of the Indian people, though in his definition of caste, he has embodied the distinction which makes a class a caste. He has divided the whole of the Indian people into castes—a procedure which has made classification of the Indian people quite confusing. We regret to say that in this classification, he has failed to apply properly the definition of caste, according to which only Hindu sections can be called castes and not others who live outside their pale.

Next, we are told that "all over India at the present moment tribes are gradually and insensibly being transformed into castes." This clearly shows that what the author means by castes, are really social groups or classes not really

"endogamous" or forbidden to marry outside their circle or group. Formation of new castes means necessarily that the existing castes are not forbidden to marry outside their own castes, for how can new castes arise out of the existing castes, if the latter are forbidden to marry outside their own circle? Hence the new formations are not really castes in the sense in which a Hindu caste is a caste; they are really social groups or classes not really endogamous. Thus tribes cannot form themselves into new castes in the sense in which a Hindu section is a caste, but can convert themselves into social groups. In this connection it should also be noted that the so-called aboriginal tribes who have been described by our author as having recently formed themselves into new castes of Hindu type, are not really examples of new castes of that type, for in the fold of Hindu society, no new castes can be formed, as all matrimonial intercourse is religiously forbidden between the Hindu castes themselves; but rather examples of incorporation or assimilation with one or other of the standard or recognised Hindu castes. These tribes must have occupied some relation in ancient times, with some of the standard Hindu castes; this relationship or "Hindu scent" in them has gradually enabled them to have matrimonial connection with some of the recognised Hindu castes and thus helped their incorporation or assimilation with some one of the Hindu castes, as we know in its developed form. Hence these are not, and cannot be, examples of new formations of Hindu castes.

For the above reason, it is only just and proper that Hindu social types should be called castes and other non-Hindu social types by a different name. The latter may be called communities, classes or groups as distinguished from castes which are strictly endogamous. Our author has divided the Indian population into several social types and has described them as castes. His method of classification is bound to convey a wrong idea of what a Hindu caste is to Europeans in general. We have shown above how tribes can be absorbed into standard Hindu castes. It would be a mistake if we call them *tribal* castes, for among the standard Hindu castes there is no caste called tribal. The proper name by which these absorbed castes should be called, must necessarily be the name of

the standard caste or castes into\* which they have been absorbed, for the absorbed castes must have taken the social status of the standard castes into which they have been absorbed. The second social type or caste has been called *functional or occupational*. Among the standard Hindu castes, there are many such occupational or professional castes, but occupation or profession is not the hall-mark of the castes to which certain sections of the Hindus belong. The Subarna-baniks, the Gandha-baniks, the Agarwals, the Ossawals, the Bhatiyas, etc., may be now classed as functional castes, but the following of a function or a profession does not place them in a caste, nor can the change of such function or profession deprive them of their caste. They belong to a particular caste, no matter whether they follow a particular profession or not. A Subarna-banik cannot leave his caste aside by ceasing to follow the present profession of a Subarna-banik. He may follow a different profession, may be a clerk or writer, may be an agriculturist, but that change of occupation and adoption of a new occupation cannot give him a new caste; he must belong to the caste of the family to which he belongs. The Sadgops and the Kaibartas of Bengal are two different Hindu castes both having agriculture as their profession; in recent times, the latter have considerably changed their occupation, so also the former; but by doing that they cannot break away from their original castes which they have inherited from their forefathers. Our author is certainly wrong when he says that these people have broken away from their pastoral caste; they never belonged to any such caste and did not lose any such caste by changing their original or hereditary occupation. A Hindu may be a lawyer by profession but "Sadgop" by caste. A Hindu may be a Judge of His Majesty's Supreme Court of Indian Judicature by profession; still by caste he may be a Sunri (literally wine-seller)—an unclean caste. The educated Kaibartas and Sadgops cannot separate themselves from their uneducated brethren by caste; educated, half-educated and non-educated Sadgops and Kaibartas all belong to their respective castes and cannot form themselves into new castes according to the degree of their education.

. All our above remarks are made in connection with

Hindu castes and their structure. Hindu castes cannot be determined by function or sect; a Hindu may follow any one of the various professions he likes; he may belong to any one of the Hindu sects which are innumerable in number; either of these is not an index to his caste. By migration a Hindu does not lose his caste, nor can acquire the status of a new Hindu caste. A Bengal Brahman, if he goes to Kashmir or Rajputana or Nepal is still a Bengal Brahman; he cannot marry with his new neighbours; for the purpose of marriage he must come to his own caste in Bengal. Changes of custom frequently lead to the formation of outcastes, but not new Hindu castes. For instance, the section of the Bengali people who are now adopting widow-marriage—a non-Hindu custom—are becoming gradually an outcaste—a fallen Hindu caste so to say. A Hindu who marries a widow immediately falls off from his social status and is degraded as an outcaste. Hence the only way in which the caste of a Hindu can be ascertained is not by examining his profession or his sect, but by his matrimonial relationship; we must ascertain with which caste he holds his matrimonial connection; there lies the true means of ascertaining a Hindu's caste.

On the grounds stated above, we hold that our author has made a great mistake in classifying all Indian people into castes, for all Indian communities, except the Hindu community, do not know any form of caste among themselves. Among the Indian people, there are Christians, Mahomedans, Buddhists, Jains, who are not divided into castes; yet our author has divided them into castes. The Hindu community only know caste, and they alone should have been divided or classified into castes according to their profession just as Dr. Bhatyacharya has done in his excellent *Hindu Castes and Sects*.

Turning to the chapter in which the origin of caste is discussed, we find a series of theories by men who have not the remotest idea of what a caste is. All these theories are "anthropomorphic" without any foundation in fact. The dominant idea in Europe at present is that everything has followed an evolutionary process in its present development;

everything is sought to be explained by evolution. Labouring under this idea, European theorists have sought to explain the origin and growth of the caste system by evolution. They do not believe that caste owed its origin to Brahmanic legislation. According to our author, Manu is a modern law compiler, because Sir Henry Maine holds this view; his description of the Hindu caste system is borrowed from the Persian legend; and the Indian theory of caste is modelled on the Iranian theory, because a division of society in four classes—priests, warriors, cultivators and artisans—appears in the sacerdotal literature of ancient Persia. This is discovery no doubt, and reminds us of the theory put forward some years ago by Weber that Valmiki borrowed his materials for his epic poem (Ramayana) from Homer. Sir Herbert Risley thinks that in the stage of development portrayed by Manu, the Hindu caste system has not hardened into the rigid mechanism of the present day. Quite true; and that was the reason why Manu classified the castes and gave them social status, so that they might harden into the rigid mechanism of the present day. Manu's function was that of a lawgiver and not of a theoriser. He ordered the ways in which the castes should be graded, and the Hindu caste system has been graded accordingly. This shows that the present rigid mechanism of the Hindu caste system owed its motive principle to Manu's legislation. After Manu, we know for certain that King Ballal Sen of Bengal again reconstructed the social system of the Bengal Hindus in his time, and founded what is known as Kulinism among them. Changed circumstances made the modification of Bengali society quite imperative in his time, as there occurred confusions among the castes for want of social precedence. Being a Hindu monarch, Ballal Sen regularly graded them in Hindu society with definite social status assigned to each caste. A new order called Kulinism—an order of nobility of birth and blood—was instituted among them. Among the Brahmans, it became a sacerdotal order, a nobility of priests, founded on learning and conduct.

After Ballal Sen, further restrictions were imposed upon the social system of Bengal by Devivar Ghatak, the prince o

Ghataks or genealogists under the orders of King Kanghsa Narain who rose in Bengal as independent king after the decline of the Afghan rule. His seat of kingdom was Tahirpur, in the Rajshaye Division of Bengal. Devivar introduced to the social system of Bengal the distinctions of *Mel*. They are still operative among the Hindus of Bengal. Now we ask our author, are not these artificial regulations introduced into Hindu society from time to time to remove confusions among the different social orders and acted upon by the Hindus as sacred injunctions, a sufficient warranty for holding conclusively the Indian theory of the origin of the first four castes which must have been devised by Brahmanic legislation? If all the later parts of the Hindu caste-system can be seen historically as owing their existence to Brahmanic legislation, what objection can there be against holding that the first or original part of that system was called into being by Brahmanic genius? It is true that the time when these first four castes were evolved in Hindu society is hidden in the mist which veils the remote era of the Aryan advance into India; but since the dawn of authentic history, we have seen that Hindu society is being frequently reconstituted by Brahmanic legislation.

We have not space enough to examine the contents of the other chapters of the book under review; we have found in them nothing strikingly original. The wrong view of caste taken at the outset as a factor of split among the Hindus, necessarily leads the author to conclude that it is not possible for the diverse races of India to form themselves into a single self-governing community or a *nation* even in the remotest future. This is quite an Indian official-like view. To Sir Herbert Risley, caste in particular seems incompatible with the idea of Indian nationality, but may we ask him in concluding, what is it that gives a "certain underlying uniformity of life from the Himalayas to Cape Comorin," and in virtue of which he admits that "there is, in fact, an Indian character, a general Indian personality?"

## ACKNOWLEDGMENTS.

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